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**STANDING COMMITTEE ON SOCIAL JUSTICE
AND EMPOWERMENT
(2007-2008)**

(FOURTEENTH LOK SABHA)

MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT

**THE MAINTENANCE AND WELFARE OF PARENTS AND
SENIOR CITIZENS BILL, 2007**

TWENTY-EIGHTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2007/ Bhadrapada, 1929 (Saka)

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Presented to Lok Sabha on 06.09.2007

Laid in Rajya Sabha on 06.09.2007



**LOK SABHA SECRETARIAT
NEW DELHI
August, 2007/ Bhadrapada, 1929 (Saka)**

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**STANDING COMMITTEE ON SOCIAL JUSTICE AND EMPOWERMENT
(2007-2008)**

Smt. Sumitra Mahajan - CHAIRPERSON

**MEMBERS
LOK SABHA**

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3. Shri Mahaveer Bhagora
4. Shri Eknath M. Gaikwad
5. Shri Loganathan Ganesan
6. Shri Syed Shah Nawaz Hussain*
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 27. Shri Abdul Wahab Peevee
 28. Shri Dharam Pal Sabharwal
 29. Shri Veer Singh
 30. Ms. Anusuiya Uikey
 31. Shri Nand Kishore Yadav
-

* Ceased to be a Member of the Committee w.e.f. 30.8.2007

SECRETARIAT

- | | | |
|--------------------------|---|----------------------|
| 1. Dr (Smt.) P.K. Sandhu | - | Additional Secretary |
| 2. Shri Ashok Sarin | - | Joint Secretary |
| 3. Shri R.K. Saxena | - | Director |
| 4. Shri Bhupesh Kumar | - | Deputy Secretary |
| 5. Km. M. Tunglut | - | Executive Officer |

INTRODUCTION

I, the Chairperson of the Standing Committee on Social Justice and Empowerment having been authorised by the Committee to submit the Report on their behalf present this Twenty-eighth Report of the Committee on 'The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007' of the Ministry of Social Justice and Empowerment.

2. The Bill was introduced in Lok Sabha on 20 March, 2007 and was referred to the Committee by the Hon'ble Speaker, Lok Sabha on 27 April, 2007 under Rule 331E (b) of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and report.

3. The Committee obtained written information on various provisions contained in the aforesaid Bill from Ministry of Social Justice and Empowerment, who also briefed them at their sitting held on 17 May, 2007.

4. Written suggestions/memoranda were received from (i) Dr. P.V. Ramamurthi, Hony. Director, Centre for Research on Ageing, Deptt. of Psychology, Sri Venkateswara University, Tirupati; (ii) Shri Raman Bhai Shah, President, All India Senior Citizens Confederation, Pune; (iii) Mrs. Vidya Ben Shah, President, Senior Citizens Service Forum, New Delhi; (iv) Mr. N.L. Kumar President, Age Care India, New Delhi; (v) Dr. Ruchika Kuba, School of Health Science, IGNOU; (vi) Prof. Anand Kumar, Centre for Social Sciences, School of Social Sciences J.N.U., New Camps, New Delhi.

5. The Committee, at their sitting held on 8th June, 2007 heard the views of above non-official experts/NGOs on the Bill.

6. The Committee took oral evidence of the Ministry of Social Justice and Empowerment on 17 July, 2007. The representatives of the Ministry of Law and Justice (Legislative Department) were also present in the meeting.

7. The Committee considered and adopted the Draft Report on "**The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007**" at their sitting held on 31st August, 2007.

8. The Committee wish to express their thanks to the officials of the Ministry of Social Justice and Empowerment, representatives of Ministry of Law and Justice (Legislative Department), non-official experts/NGOs concerned with the subject for their cooperation in placing before them their considered views and perceptions on the provisions of the Bill and for furnishing written notes and information that the Committee had desired in connection with the examination of the Bill.

9. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

**New Delhi;
31 August, 2007
9 Bhadrapada, 1929(Saka)**

**SUMITRA MAHAJAN,
Chairperson,
Standing Committee on Social
Justice and Empowerment.**

REPORT

1.1 The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007 was introduced in Lok Sabha on 20 March, 2007 and has been referred by Hon'ble Speaker to the Standing Committee on Social Justice and Empowerment for examination and report on 27 April, 2007. The objective of the Bill is to provide for more effective provisions for the maintenance and welfare of Parents and Senior Citizens guaranteed and recognized under the Constitution and for matters connected therewith or incidental thereto. The most important provision of the Bill is to make the maintenance of parents by their family as a legal right.

1.2 The Bill proposes to provide for:

- (a) appropriate mechanism to be set up to provide need-based maintenance to the parents and senior citizens
- (b) providing better medical facilities to senior citizens
- (c) for institutionalization of a suitable mechanism for `protection of life and property of older persons
- (d) setting up of old age homes in every district

Need for the legislation:

1.3 The Ministry have informed the Committee that there has been a steady rise in the population of older persons in India, as is evident from the fact that in 1951, the number of older persons above 60 years was only 2 crore which increased to 5.7 crore in 1991 and 7.6 crore in 2001. The improvement in the intake of nutrition and medicine and treatment has brought about an appreciable increase in life expectancy. The life expectancy, which was around 29 years in 1947, has increased

manifold and now stands closer to 63 years. Projection studies indicate that the number of 60+ in India will increase to 10 crore in 2013 and to almost double or 19.8 crore in 2030.

1.4. The traditional norms and values of the Indian society laid stress on showing respect and providing care for the aged. The aged members of the family were normally cared for by the family itself. However, in recent times, society is witnessing a gradual but definite withering of the joint family system, as a result of which a large number of parents are not being maintained by their children, as was the normal social practice. Consequently, the elders are now exposed to emotional neglect and to lack of physical and financial support. They are facing a lot of problems in the absence of adequate social security.

1.5 The Committee have further been informed that with their dwindling financial resources and weakening health, parents are often being perceived as burden, even while living within the family. Many older persons are now living with spouse and without children, while many persons, specially widowed women are forced to spend their twilight years alone. This clearly reveals that ageing has become a major social challenge and financial support, care and treatment are required for the older persons. Unfortunately, the time has come when the moral obligation of children to look after their parents in their old age has to be backed by a legal obligation.

1.6 During evidence, the Secretary, Ministry of Social Justice and Empowerment stated -

“ It is an established fact that family is the most desired environment for senior citizens/parents to lead a life of security, care and dignity. Keeping in view of this fact and to ensure that the children perform its moral obligation towards their parents, the proposed legislation aims to create an enabling mechanism for the older persons to claim need-based maintenance from their children.”

1.7. The Ministry have informed that even though a provision already exists under the Criminal Procedure Code 1973 (Section 125) for maintenance of parents, the procedure of going through the Court is both time consuming and cumbersome in addition to being expensive. Hence, there is a need to bring in a legislation, which will make the claim for maintenance simpler, speedier and inexpensive.

1.8 Explaining the major difference between the section 125 of Cr P.C. and the proposed legislation and the advantages of the maintenance provision of the Bill over section 125 of Cr. P.C., the Secretary, Ministry of Social Justice and Empowerment stated during evidence as under:-

”Only a Magistrate orders the claim for maintenance whereas under the provisions of the proposed legislation, the Tribunal headed by the SDM will decide the case. Proceedings under Cr. P.C are time consuming whereas the same will be disposed of in a time bound manner of 90 days by the proposed Tribunals. For claiming maintenance under Cr. P.C, advocates participate in the proceedings and hence it is costly for a person who is not in a position to finance his case, whereas in case of the proposed legislation, the participation of the advocates is barred from the proceedings of the Tribunal.

In addition, the main focus of the legislation is to first resolve the disputes and differences between parents and children amicably by referring the case to a Conciliation Officer. In case of failure of these efforts only, the Tribunal will take action. There is no such provision under Cr. P.C 125.

Unlike the restrictive definition of parents in Cr. P.C. a broad definition of parents and children have been included in the proposed Bill to cover grandparents, grandchildren, adopted step and even relatives/anyone who inherit the property of the senior citizens.

Under Cr. P.C., only an affected parent can file a case for maintenance. Under the proposed legislation, in addition to the parent, his representatives/NGOs authorized by the parents can file application for claiming maintenance. Tribunal can also take suo-motu cognizance and initiate proceedings of the case.

Maintenance award under Cr. P.C. has to go through all the normal channels of appeal as prescribed under the law. However, in the proposed legislation, only one appeal is allowed before the appellate authority, i.e. District Magistrate. The disposal of the appeal is also time bound. The proposed legislation also contains a penal provision of imprisonment to the children for a term that can be extended upto a period of three months for neglect and abandonment of their parents.

Thus, it is evident from all this that the proposed legislation provides a mechanism for claiming maintenance in a time bound and cost effective manner and as such, has an advantage over the Section 125 of Cr. P.C. Further, the legislation also contains comprehensive provisions for welfare of senior citizens such as providing health, security, shelter, protection of life and property. Over and above this, the proposed legislation also contains a provision, which enables the parents who transfer their property to their children or anybody on the condition of providing maintenance to them, to revoke such transfer on its failure.”

1.9 Clause 23(1) enables the senior citizen/parent who have transferred by way of gift or otherwise, his/her property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and if such transferee refuses or fails to meet the above stated stipulation, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall, at the option of the transferor be declared void by the Tribunal. It has also been provided in the legislation through clause 5(2) that the Tribunal may, during pendency of the proceedings regarding maintenance, order such children or relative to pay monthly interim maintenance to such senior citizen/parent.

1.10 As per the view of a non-official expert, the bill in its present form will meet the needs of parents and senior citizens belonging to educated families, propertied classes and big city population. There is a need to broaden the approach of the Bill so that the parents and senior citizens belonging to the poor classes, smaller towns and illiterate and semi-illiterate background may also be helped. He further stated that if we encourage public private partnership by engaging NGOs, community organizations and corporate sectors for this programme, it will become cost-effective for the Government.

Benefits of the Legislation

1.11 Recognizing that the family is the most desired environment for senior citizen/parent to lead a life of security, care and dignity and to ensure that the progeny performs its moral obligation towards their parents who may otherwise be left uncared for and destitute in their old age, the proposed legislation aims to ensure that maintenance of older persons by their family will be a matter of right for the parents. The proposed legislation also aims to create an enabling mechanism for the older persons to claim need-based maintenance from their children. The State of Himachal Pradesh had already enacted such a legislation called the "Himachal Pradesh Maintenance of Parents and Dependents Act, 2001." The proposed legislation draws heavily on this Act, as far as the Maintenance of Parents is concerned.

1.12 The Ministry have further stated that even after legally providing for maintenance by lineal descendants, the need for Old Age Homes exists for the care

and protection of the indigent older persons. This is because some older persons may be without any family support or their children may all be settled abroad, or they may not be able to live amicably with their children for any reason. The Bill, therefore, provides for the setting-up of old age homes, at accessible places, by the State Governments in a phased manner beginning with at least one in each district (or more than one,) to accommodate in such homes a minimum of 150 indigent beneficiaries.

1.13. An increasing number of older persons who are economically self-sufficient, are living alone voluntarily or involuntarily. These people are increasingly becoming soft targets of anti social elements and as such there is a need to ensure that they are provided with a suitable mechanism for protection of their lives and property. Under clause 21 the Bill envisages to provide for the institutionalization of a suitable mechanism by the State Governments for protection of life and property of older persons.

1.14 The major cause of anxiety in old age is deteriorating health condition coupled with dwindling financial position. There is a need for good affordable health services. Therefore, provisions to provide better medical facilities to older persons have been incorporated in the proposed legislation.

Consultation with the Non-Government Organizations/Experts:

1.15 The Ministry have stated that they had consulted the leading NGOs, experts, and organizations of senior citizens on the proposed legislation. Most of them welcomed the proposed legislation. Their views/suggestions were duly considered at the time of formulating the proposed legislation. Further, the National Council on Older Persons also endorsed the salient features of the proposed legislation in its meeting held on 20.9.2005.

1.16 Accordingly, a legislation for the welfare of the Parents and Senior Citizens in pursuance of the provisions of Article 41 read with Entry 23 of the Concurrent List (Schedule VIII) of the Constitution of India has been formulated and introduced in the Lok Sabha on 20.3.2007.

1.17 The Committee also interacted with some non-official experts and representatives of NGOs concerned with the subject on 8 June 2007 and obtained comments of the Ministry of Social Justice and Empowerment on the their suggestions for amendments received by the Committee.

1.18 On a suggestion received to define the word 'Welfare' in clause 2 of the Bill, the Ministry stated that the meaning of welfare is very generalized. Besides maintenance, the Bill seeks to address only the specific issues of establishment of Old Age Homes, Medical care of Senior Citizen and measures for protection of their life and property.

These have been covered in Chapter III, IV and V of the Bill separately. In view of this, the term 'welfare' has not been defined.

1.19 The Committee note that the Union Government have brought out a Bill for the maintenance and welfare of parents and senior citizens. The Committee, however observe that though the Government have incorporated the term 'welfare' in the title of the Bill, yet no efforts have been made to define the term in Clause 2 of the Bill. Keeping in view the fact that welfare is a generalized term and Clause 2 being the Definition Clause of the Bill, the Committee desire that the scope and extent of the term 'welfare' in relation to the proposed legislation, should be specifically defined under Clause 2 of the Bill. The Committee, therefore, recommend that in Chapter I, clause 2, add sub clause 'k' 'welfare' means provision of food, health care, recreation centres and other amenities necessary for the well being of the senior citizens. In addition to thrust on legal action for maintenance, focus should be given in the proposed legislation on the welfare for parents and senior citizens.

1.20 The Committee also note that as per the provisions of the proposed legislation, all actions related to its implementation are intended to be taken only by the State Governments. Clause 1(3) of the Bill states that it shall come into force in a State on such date as the State Government, may provide, by notification in the Official Gazette. Further, Clause 30 of the Bill empowers the Union Government to give directions to the State Governments to carryout execution of the proposed legislation. The Committee are of the opinion that although onus for implementation of the proposed legislation is laid on the State Governments, no time frame has been stipulated in the Bill for the States to implement it. The Committee, expect the Government to play a proactive

role in the implementation of the proposed legislation by the State Governments in a time bound manner so that parents and senior citizens are accorded proper maintenance and adequate welfare measures are undertaken for their care and protection. The Committee also feel that the Government cannot absolve themselves of the responsibility to provide due maintenance and care to parents and senior citizens and limit their role only to issue of directives to the State Governments. The Committee therefore, desire that the role of the Union Government, to ensure maintenance and welfare of the parents and senior citizens, should also be defined specifically in the Bill. To make the services for old age people cost effective, involvement of private sector, community organizations and corporate sector may also be explored.

I. Clause 1 of the Bill - Extent and Application of the Act.

1.21 In Clause 1(2) of the Bill, the extent and application of the Act has been stipulated as under:

“It extends to the whole of India except the State of Jammu and Kashmir and it applies also to citizens of India outside India.”

1.22 During evidence, the Committee pointed out that the Maintenance and Welfare of Parents and Senior Citizens Bill is more in the nature of a social legislation and mainly deals with family issues. Moreover, it is applicable even to those citizens of India living abroad. Therefore, the words “except Jammu and Kashmir” could be omitted. Thereupon, the Secretary, Ministry of Social Justice and Empowerment responded as under:

“XXXX This is just in deference to a special reference under our Constitution for the State of J&K. But I would like to submit before the Committee that the State of J&K has been fully kept involved in our consultative process. We have received their views and comments and in fact, they have communicated to the Government of India that they have no objection to the enactment of the Central legislation and they will themselves draft a Bill on that line.”

1.23 The representatives of the Ministry of Law and Justice clarified the position as under:

“This present legislation is related to entry 23 of the Concurrent List which says ‘social security, social insurance, employment and unemployment’. This entry is further subject to the Constitution – Applications to J&K order 1954. In fact, prima facie there is no bar to annexe it. This is a very good suggestion”. “ We will consider it.”

1.24 The Committee note that as per the provisions of ‘The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007’, the Act, when enforced shall be applicable to the whole of India as well as to the citizens of India living abroad except in the State of Jammu and Kashmir. The Committee find no justification in excluding the State of Jammu and Kashmir from the ambit of the proposed legislation as it deals with social and family issues. During evidence the representative of the Ministry of Law and Justice also clarified that the proposed legislation is related to Entry 23 of the Concurrent List which provides for ‘social security, social insurance, employment and unemployment’. Further, according to them ‘Prima facie there is no bar to annexe it’. The Committee, therefore, recommend that Clause 1(2) of the Bill should be amended to bring within its ambit the State of Jammu and Kashmir also so that the benefits of the proposed legislation could be enjoyed by parents and senior citizens living in that State.

II. Clause 5 of the Bill - Application for Maintenance.

1.25 Clause 5 (4) of the Bill stipulates as under:

“An application filed under sub-section(2) for the monthly allowance, for the maintenance and expenses for proceeding shall, as far as possible be disposed of within ninety days from the date of the service of notice of the application to such person.”

1.26 The Committee note that the Bill has been formulated to address the need to have simple, inexpensive and speedy provisions to claim maintenance by parents. However a time limit of ‘as far as possible’ ninety days has been prescribed in the Bill to dispose of an application filed under the Act.

1.27 The comments of the Ministry were sought regarding deletion of the phrase ‘*as far as possible*’ in the above Clause. The Ministry have stated that a time limit of a maximum 90 days has been stipulated for final disposal of a maintenance claim. However, there may be such cases where it may not be practically possible to conclude the proceedings meaningfully within that time frame. Keeping in view such eventualities, the phrase ‘as far as possible’ has been included.

1.28 Clause 5 (4) of the Bill stipulates that an application filed under subsection (2) for the monthly allowance, for the maintenance and expenses for proceeding shall, as far as possible be disposed of within ninety days from the date of the service of notice of the application to such person. The Committee are not convinced with the reason given by the Government in their reply that the phrase '*as far as possible*' has been included in Clause 5(4) of the Bill to resolve successfully the eventuality where it may not be practically possible to dispose of an application for maintenance within ninety days from the date the notice of the application was served to a person. The Committee feel that the very purpose of the Bill to provide simple, inexpensive and speedy mechanism to claim maintenance by parents may be mitigated as the provision can be misused to unjustifiably delay the disposing of the maintenance claims. The Committee, therefore, recommend that the phrase '*as far as possible*' be deleted from Clause 5(4) of the Bill. Instead after the words application to such persons it may be added that 'In exceptional circumstances, one time extension for a maximum period of 90 days may be considered for disposal of the proceedings by the Tribunal'.

III. Clause 7 and 15 of the Bill - Constitution of Tribunals and Appellate Tribunals.

1.29 Clause 7 of the Bill provides for the constitution of Tribunals:

(1)The State Government may, by notification in the Official Gazette, constitute for each Sub-division one or more Tribunals as may be specified in the notification for the purpose of adjudicating and deciding upon the order for maintenance under section 5.

(2)The Tribunal shall be presided over by an officer not below the rank of Sub-Divisional Officer of a State.

(3)Where two or more Tribunals are constituted for any area, the State Government may, by general or special order, regulate the distribution of business among them.

1.30 The Bill also provides for the constitution of Appellate Tribunals in Clause 15 as under:

(1)The State Government may, by notification in the Official Gazette, constitute one Appellate Tribunal for each district to hear the appeal against the order of the Tribunal.

(2)The Appellate Tribunal shall be presided over by an officer not below the rank of District Magistrate.

1.31 The Ministry have stated in their Financial Memorandum that since the Bill proposes to utilize the existing machinery of the State Government, there would not be any additional expenditure.

1.32 When enquired whether the State Governments would be able to implement the proposed Act effectively with their existing machinery, the Ministry responded that the State Governments have been consulted on the issue and are expected to implement the provisions of the Act effectively with their existing machinery.

1.33 The Committee desired to know what additional financial measures would be taken by the Central Government to make available more funds to State Governments, if required by them, for effective implementation of various provisions of the Bill. The Ministry, have informed the Committee that the presiding officer of the Tribunal and the Appellate authority would perform their duties in addition to their regular responsibilities. The existing infrastructure like office premises of the SDO designated as head of the Tribunal and that of the District Magistrate will also service as the offices of the Tribunals and the Appellate Authority.

1.34 On being asked whether a provision could be incorporated in the Bill to make States accountable for enforcing the provisions of the proposed Act and whether a time limit for setting up the Tribunals and Appellate Tribunals could be prescribed in the Bill, the Ministry informed that as soon as a State Government adopts the Act, it will become the responsibility of the State Governments to implement its provisions which may include setting up of the necessary infrastructure and facilities.

1.35 The Committee note that in the proposed legislation, the Government have not made any provision to financially assist the State Governments to constitute Tribunals for adjudicating and deciding upon the order for maintenance and Appellate Tribunals to hear the appeal against the order of the Tribunals. The Government have informed that the States are expected to implement the provisions of the Bill effectively with their existing machinery. The Committee however feel that the States may not be able to cope up with the increased workload and responsibility with the existing machinery and would require more funds for infrastructural facilities in setting up the Tribunals and Appellate Tribunals. The Committee, therefore, recommend that grants-in-aid be given to the State Governments for setting up Tribunals and Appellate Tribunals and for creation of related infrastructure so that effective implementation of the Bill does not suffer due to lack of funds.

1.36 The Committee are constrained to note that no time limit has been stipulated in the proposed legislation for setting up Tribunals and Appellate Tribunals by the State Governments. In order to make the States more accountable and to ensure early implementation of the provisions of the Bill, the Committee desire that the Government should stipulate a time period, preferably six months for setting up the Tribunals and Appellate Tribunals from the date the Act comes into force.

IV. Clause 19 of the Bill - Establishment of Old Age Homes

1.37 Clause 19 of Bill provides for the establishment of Old Age Homes as under:-

(1)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.

(2)The State Government may, 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.

1.38 The Committee desired to know whether the senior citizens living below poverty line will be given preference in getting admission in old age homes wherein the Ministry informed that since the old age homes are meant for the destitute older persons, it can be inferred that the senior citizens living below poverty line will have priority in getting the benefits.

1.39 On being asked whether the Central Government will be contributing any funds towards the establishment and maintenance of old age homes under the Act, the Ministry have informed that they are in the process of converting the existing 'Non-Plan Scheme' of providing financial assistance to Panchayati Raj Institutions/voluntary Organizations/Self Help Groups for Construction of Old Age Homes/Multi Service Centres for older persons into a 'Plan Scheme' with enhanced budgetary provisions and flexibility. The new Scheme proposes to sanction grant-in-aid to State Governments for Construction of Old Age Homes/Multi Service Centres. The scheme is in the initial stages of formulation and the details are being worked

out. Further, the Central Government will also continue to provide assistance for maintenance of old age homes under its existing Scheme of Integrated Programme for Older Persons.

1.40 During evidence the Secretary of the Ministry stated that the old age homes, which are already there in the country run by the voluntary sector and supported by the Ministry through grant-in-aid, should be more formalized and more systematized and more uniformly spread through out the country. She further stated that State Government should make a scheme for management of old age homes.

1.41 During evidence it was also suggested to construct Old Age Homes near orphanages as the orphan children who do not have parents can be cared under their guidance. They can be benefited by that. It can be a joint venture with orphanages and old age homes. The Secretary responded and said that they would consider it.

1.42 The Committee note that establishment of old age homes for senior citizens who are indigent, in every district of the State, is one of the objectives of the proposed legislation. However, no provision has been made to provide funds for the establishment and maintenance of old age homes. The Government have informed that they are in the process of formulating a new scheme to sanction grants-in-aid to State Governments for construction of old age homes/multi service centres. The Government would also continue to provide assistance for maintenance of old age homes under its existing scheme of 'Integrated Programme for Older Persons'. The Committee however feel that since establishment of old age homes is stipulated in the proposed legislation, the Government should make adequate provision for grants-in-aid to the State Governments for establishing and maintaining old age homes in the proposed legislation itself, for which suitable amendment in the proposed legislation may be made. The Committee also urge upon the Government to formulate a long term plan to establish adequate number of well maintained Old Age Homes through out the country at the earliest so that maximum number of deserving and destitute senior citizens could be accommodated in such Homes.

1.43 Clause 19 (2) of Chapter III of the Bill provides for provision for 'means of entertainment' for the inmates of old age homes. The Committee, desire that provision for facilities for setting up 'Recreation Centres' for senior citizens living in the old age homes should also be incorporated in the proposed legislation to create an atmosphere where the senior citizens would

be able to relax and rejuvenate physically and mentally. The Committee, therefore, recommend that the words 'Recreation Centres' should be suitably inserted in Clause 19(2) of the Bill.

1.44 The Committee also desire that as part of their welfare programme for senior citizens, State Governments should set up old age homes close to orphanages so that the young children are brought under the guidance and experience of the aged persons and both would benefit from interacting with each other and also psychologically compliment each other. The Committee urge the Government to issue necessary directions to the State Governments for consideration and implementation in this regard.

V. Clause 20 of the Bill - Provisions for Medical Care of Senior Citizens

1.45 Clause 20 of the Bill provides for the medical care of senior citizens as under:

(1) The State Government shall ensure that-

(i) the Government hospitals or hospitals funded fully or partially by the Government shall provide beds for all senior citizens as far as possible;

(ii) separate queues be arranged for senior citizens;

(iii) facility for treatment of chronic, terminal and degenerative diseases is expanded for senior citizens;

(iv) research activities for chronic elderly diseases and ageing is expanded;

(v) there are earmarked facilities for geriatric patients in every district hospital duly headed by a medical officer with experience in geriatric care.

1.46 The Ministry have stated that the existing infrastructure of the States will be utilized for the above mentioned purpose. The Committee enquired whether the States, with their limited resources will be able to provide the facilities envisaged in the Bill and whether the requirement of funds for provision of better medical facilities and security to the senior citizens living alone in their own homes could be prescribed / stipulated in the proposed Act. The Ministry have responded that many of the provisions in respect of medical facilities to senior citizens like providing beds, separate queues do not require significant additional infrastructure. The other provisions are part of regular up-gradation of facilities and improvement of medical technology, which can be, by and large, taken care of within the available sources.

1.47 In response to another query relating to ensuring that a certain number of beds are earmarked for senior citizens in Government hospitals, the Ministry have stated that earmarking certain number of beds may result in non-availability of those beds to other patients in cases, where there are not enough elderly patients requiring beds.

1.48 In response to question relating to making a provision of 'Group Health Insurance for Senior Citizens' the Ministry have stated that Government Hospitals generally treat the poor patients free of cost. Insurance coverage is mostly required in critical illness and at places where adequately equipped Government hospitals are not available. The Ministry have further stated that Group Health Insurance is a subject whose dimensions and parameters are entirely different from that of a social legislation. Therefore, the subject cannot be holistically covered within the compass of the proposed legislation.

1.49 In this regard the Secretary, Ministry of Social Justice and Empowerment stated during evidence:

“Efforts are being made in that direction and the Insurance Regulatory and Development Authority, which is the regulator in this field has already constituted an expert committee on health insurance for senior citizens and they are deliberating on various issues. The Ministry of Social Justice is in regular touch with them and in fact this issue was raised in the last meeting of the National Council of Older Persons. They have come in our Council and the Joint Secretary is also attending their meetings. These are some of the measures which are being taken separately. I am aware that this does not address the issue of the group insurance which means that there should be a share from the public exchequer and although, this only takes care of the individual health insurance, there is certainly a need and we keep it in mind. We take due note of it. “

1.50 In this context, the Committee considered the suggestions received from Non-official experts stating that a percentage of income tax or special surcharge be used to form a corpus for geriatrics/senior citizens at national level. Also national level training institute for geriatrics should be started.

1.51 The Committee note that the Government have not made any inroad so far in the field of group health insurance for senior citizens though the Insurance Regulatory and Development Authority, which is the regulator in the field, has constituted an Expert Committee on health insurance for senior citizens. The Committee do not agree with the views of the Government that insurance coverage is mostly required in critical illness and at places where adequately equipped hospitals are not available. They are also not inclined to agree to the Government view that Group Health Insurance is a subject whose dimensions and parameters are entirely different from that of social legislation. The Committee are of the firm view that for the benefit of senior citizens, particularly belonging to poor families with dwindling financial position and those suffering from chronic diseases or having deteriorating health conditions, the Government have to broaden their approach and introduce group health insurance for their welfare. The Committee, therefore, recommend that under clause 20 of the Bill, insert 'sub-clause vi' as follows "All senior citizens to be covered under Group Health Insurance."

1.52 The Committee observe that in rural areas it is difficult for older persons to get proper medical treatment for their ailments due to various reasons. The Committee, therefore, urge the Government to examine the feasibility of making mandatory provision in the Bill for the doctors working in hospitals to conduct medical camps in various parts of the country, especially in rural and far flung areas, to take care of medical needs of older persons. The Committee

further recommend that private hospitals, getting concessional land or other facilities from the Government, may also give concession towards consultation and treatment to the older persons.

Protection of life and Property of Senior Citizen

1.53 Clause 21 and 22 provide for protection of life and property of senior citizens as under:-

21: The State Government shall, take all measures to ensure that-

(i) the provisions of this Act are given wide publicity through public media including the television, radio and the print, at regular intervals;

(ii) the Central Government and State Government officers, including police officer and the members of the Judicial service, are given periodic sensitization and awareness training on the issues relating to this Act;

(iii) effective co-ordination between the services provided by the concerned Ministries or Departments dealing with law, home-affairs, health and welfare to address the issues relating to welfare of the senior citizens and periodical review of the same is conducted.

22 (2):The State Government shall prescribe a comprehensive action plan for providing protection of life and property of senior citizens.

1.54 Keeping in view the fact that vulnerable senior citizens have become soft targets for criminal elements especially in cities the Committee enquired how the Central Government would be able to play a more substantial and active role to protect the life and property of the senior citizens. The Ministry in their written reply have stated that Protection of life and property basically pertains to Law and Order, which is a State subject. Therefore, it has been provided under Section 22(2) that the State Government shall prescribe a comprehensive action plan for providing

protection of life and property of senior citizen. Further, section 31 provides that the State Governments may make rules for carrying out the purposes of the Act. Therefore, this issue can be comprehensively addressed by the State Governments at the time of framing rules. If any directions/guidance in this matter is considered necessary in the course of implementation of the legislation, an enabling provision has already been included vide section 30 of the Bill, which empowers the Central Government to give such directions to State Governments for carrying out the execution of the provisions of this Bill.

1.55 As per Clause 22(2) of the Bill, the onus for preparing a comprehensive action plan for protection of life and property of senior citizens has been laid upon the State Governments. The role of the Union Government is limited only to give direction/guidance to State Governments. Keeping in view the current scenario of law and order and eroding sense of morality, the Committee recommend that more concrete, effective and mandatory provisions, to protect the life and property of the senior citizens, who become soft targets of criminal elements in their old age, should be made in the Bill. The Committee also desire that a provision should be made in the Bill to guarantee the right to residence of the parents in the house, even if constructed by their son from his personal earnings as it would ensure protection of their life. Although protection of life and property basically pertains to law and order which is a State subject, yet State Governments can be asked to take some measures like establishment of Senior Citizens Service and Information Centres in each district, to provide information on the services/concessions available to the senior citizens, for registration of senior citizens with respective police station, periodic visits by NGOs etc. The Committee recommend that these measures should be incorporated in the Bill.

VII Social Security for the Senior Citizens

1.56 The Committee observed that though the Maintenance and Welfare of Parents and Senior Citizens Bill, 2007 has been prepared with the specific purpose of maintenance and welfare of parents and senior citizens, however, provisions for social security measures like 'Group Insurance and Old Age Pension' have not been made in the Bill.

1.57 When enquired whether the above mentioned proposals could be incorporated in the Bill, the Ministry have informed that the National Old Age Pension Scheme was transferred to the State Governments with effect from the financial year 2002-03. However, neither the age for eligibility nor the amount of pension is uniform over different State Governments. In order to ensure uniformity in implementation of the scheme across the country, a provision was initially proposed in the legislation, which required the State Governments to provide financial security to all the senior citizens living below poverty line.

1.58 However, in deference to the suggestion of the Department of Expenditure to de-link the issue from the Bill, it has been decided to drop the provisions relating to Old Age Pension from the proposed legislation. The grounds of the suggestion of the Department of Expenditure has been stated to be that it will lead to creation of statutory rights with serious and uncertain financial implications. The Committee have been further informed that the Central share of Old Age Pension has since been increased from Rs. 75/- per person per month to Rs. 200/- per person per

month. The State Governments have been asked to make matching contribution to the old age pension amount. The number of beneficiaries as well as the budgetary allocation of the scheme are being increased progressively every year, thereby expanding the coverage of old age pension scheme.

1.59 During evidence, the Secretary explained the reasons for not incorporating old age pension in the Bill :

“On the issue of old age pension, it is not that the Government of India is not aware of it or is not trying to play more and more active role in it, but then in the consultative process a decision has been taken that it should not be made a statutory obligation. It is a policy of the Government of India and State Governments, but a conscious decision has been taken by the Government not to make it a statutory obligation.”

1.60 The Secretary also drew attention of the Committee towards provisions of Article 41 of the Directive Principles of State Policy of the Constitution of India. It mentions, ‘within the limits of its economic capacity and development, the State shall make effective provisions for public assistance’. She continued to state that the Government are playing an active role in old age pension together with the State Governments but a view has been taken not to make it a statutory provision. Thereupon the Committee pointed out that there is no role of the State Governments and direction is given to them (State Governments). The Committee expressed their disagreement on view of the Ministry that- Pension bill can only be brought by the State Government.

1.61 The Committee note with concern that one of the most important means of social security for senior citizens i.e., old age pension has been left out of the ambit of 'The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007'. The reason advanced by the Government that a conscious decision has been taken not to make it a statutory obligation as it will lead to serious and uncertain financial implications does not carry any weight taking into consideration the larger objective of welfare of the older persons. It is pertinent to note that State Governments are implementing Old Age Pension Scheme in their respective States but the amount of pension and the age / other criteria for eligibility are not uniform among the States. Therefore, in order to ensure that senior citizens are provided financial security, the Committee urge upon the Government to play a proactive role by making it statutory obligation on the part of the State Governments to disburse uniform and adequate old age pension to the senior citizens.

IX. Role of NGOs

1.62 The Committee note that there is no provision in the Bill about the role of NGOs for implementation of the proposed Act and enquired about the measures proposed to be taken to make the Registered Voluntary organizations accountable and protect the rights and interests of the physically incapable senior citizens. The Ministry, in their reply have informed that the State Governments are accountable for enforcing the provisions of the Bill and to protect the rights and interests of the physically incapable. The NGOs are expected to take voluntary initiation by spreading awareness among the public in general and senior citizens in particular, about the provisions of the Act. They will also assist the parents/senior citizens in filing applications before the Tribunals. The Ministry has further stated that the activities of NGOs are essentially voluntary in nature and vary in development from State to State and even within the same State, in different areas. Hence, creation of any mandatory/statutory obligations on the part of NGOs has not been considered appropriate.

1.63 The Committee also find that there is no provision in the Bill to cater to the psychological and emotional needs of the senior citizens, particularly those above the age of 70 and widowed women.

1.64 The Committee note with concern that no provision has been made in the Bill to provide emotional and psychological support and care to the senior citizens, particularly those above the age of seventy and widowed women. This group of senior citizens often spend their twilight years lonely, in a state of negligence and deprivation. The Committee, therefore, desire that the Government should make provision for setting up Help line, Counseling Centres etc. to cater to the emotional needs of the most vulnerable amongst the senior citizens and widowed women.

NEW DELHI;
31 August, 2007
9 Bhadrapada, 1929 (Saka)

Smt. SUMITRA MAHAJAN,
Chairperson,
Standing Committee on Social
Justice and Empowerment.

ANNEXURE - I

AS INTRODUCED IN LOK SABHA

Bill No. 40 of 2007

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

ARRANGEMENTS OF CLAUSES

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20. Medical support for senior citizens.

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21. Measures for publicity, awareness, etc., for welfare of senior citizens
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26. Officers to be public servants.
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31. Power of State Government to make rules.

Bill No. 40 of 2007

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

A
BILL

to provide for more effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognized under the Constitution and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:-

PRELIMINARY

1. (1) This Act may be called the Maintenance and Welfare of Parents and Senior Citizens Act, 2007

Short title, extent,
Application and
commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir
and it applies also to citizens of India outside India

(3) It shall come into force in a State on such date as the State Government, may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,-

Definitions

(a) “children” includes son, daughter, grandson and grand-daughter but does not include a minor;

(b) “maintenance” includes provision for food, clothing, residence and medical attendance and treatment;

(c) “minor” means a person who, under the provisions of the Indian Majority Act, 1875, is deemed not to have attained the age of majority; 9 of 1875.

(d) “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;

(e) “prescribed” means prescribed by rules made by the State Government under this Act;

(f) “ property” means property of any kind, whether movable or immovable, ancestral or self acquired, tangible or intangible and includes rights or interests in such property;

(g) “relative” means any legal heir of the childless senior citizen who is no minor and is in possession of or would inherit his property after his death;

(h) “senior citizens” means any person being a citizens of India, who has attained the age of sixty years or above includes parent whether or not a senior citizens;

(i) “State Government”, in relation to a Union territory, means the Administrator thereof appointed under article 239 of the Constitution;

(j) “Tribunal” means the Maintenance Tribunal constituted under section 7.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act, or in any instrument having effect by virtue of any enactment other than this Act.

Act to have overriding effect .

CHAPTER II

MAINTENANCE OF PARENTS AND SENIOR CITIZENS

Maintenance of
parents and
senior citizens

4. (1) A senior citizen including parent who is unable to maintain himself from his own earning or out of the property owned by him, shall be entitled to make an application under section 5 in case of-

(i) parent or grand-parent, against one or more of his children not being a minor;

(ii) a childless senior citizen, against such of his relative referred to in clause (g) of section 2.

(2) The obligation of the children or relative as the case may be, to maintain a senior citizen extends to the needs of such citizen so that senior citizen may lead a normal life.

(3) The obligation of the children to maintain his or her parent extends to the needs of such parent either father or mother or both, as the case may be, so that such parent may lead a normal life.

(4) 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:

Provided that 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.

Application for
Maintenance

5.(1) An application for maintenance under section 4, may be-

(a) by a senior citizen or a parent, as the case may be; or

(b) if he is incapable, by any other person or organization authorized by
him; or

(c) the Tribunal may take cognizance suo motu.

21 of 1860.

Explanation – For the purposes of this section “organization” means any voluntary association registered under the Societies Registration Act, 1860, or any other law for the time being in force.

(2) The Tribunal may, during the pendency of the proceeding

regarding monthly allowance for the maintenance under this section, order such children or relative to make a monthly allowance for the interim maintenance of such senior citizen including parent and to pay the same to such senior citizen including parent and to pay the same to such senior citizen including parent as the Tribunal may from time to time direct.

(3) On receipt of an application for maintenance under sub-section (1), after giving notice of the application to the children or relative and after giving the parties an opportunity of being heard, hold an inquiry for determining the amount of maintenance.

(4) An application filed under sub-section (2) for the monthly allowance, for the maintenance and expenses for proceeding shall, as far as possible be disposed of within ninety days from the date of the service of notice of the application to such person.

(5) An application for maintenance under sub-section (1) may be filed against one or more persons:

Provided that such children or relative may implead the other person liable to maintain parent in the application for maintenance.

(6) Where a maintenance order was made against more than one person, the death of one of them does not affect the liability of others to continue paying maintenance.

(7) Any such allowance for the maintenance and expenses for proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or expenses of proceeding, as the case may be.

(8) If, children or relative so ordered fail, without sufficient cause to comply with the order, any such Tribunal may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person for the whole or any part of each month's allowance for the maintenance and expenses of proceeding, as the case be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made whichever is earlier:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Tribunal to levy such amount within a period of three months from the date on which it became due.

6. (1) The proceedings under section 5 may be taken against any children or relative in any District-

Jurisdiction
procedure.

and

(a) where he resides or last resided; or

(b) where children or relative resides.

(2) On receipt of the application under section 5, the Tribunal shall issue a process for procuring the presence of children or relative against whom the application is filed.

(3) For securing the attendance of children or relative the Tribunal shall have the power of a Judicial Magistrate of first class as provided under the Code of Criminal Procedure, 1973.

(4) All evidence to such proceedings shall be taken in the presence of the children or relative against whom an order for payment of maintenance is proposed to be made, and shall be recorded in the manner prescribed for summons cases:

Provided that if the Tribunal is satisfied that the children or relative against whom an order for payment of maintenance is proposed to be made is willfully avoiding service, or willfully neglecting to attend the Tribunal, the Tribunal may proceed to hear and determine the case ex parte.

(5) Where the children or relative is residing out of India, the summons shall be served by the Tribunal through such authority, as the Central Government may be notification, specify in this behalf.

(6) The Tribunal before hearing an application under section 5 may, refer the same to a Conciliation Officer and such Conciliation Officer shall submit his finding within one month and if amicable settlement has been arrived at, the Tribunal shall pass an order to that effect.

Explanation.- For the purposes of this sub-section "Conciliation Officer" means any person or representative of an organization referred to in Explanation to sub-section (1) of section 5 or the Maintenance Officers designated by the State Government under sub-section (1) of section 18 or any other person nominated by the Tribunal for this purpose.

7. (1) The State Government may, by notification in the Official Gazette, constitute for each Sub-division one or more Tribunals as may be specified in the notification for the purpose of adjudicating and deciding upon the order for maintenance under section 5.

(2) The Tribunal shall be presided over by an officer not below the rank of Sub-Divisional Officer of a State.

(3) Where two or more Tribunals are constituted for any area, the State Government may, by general or special order, regulate the distribution of business among them.

Summary
procedure in
case of inquiry

8. (1) In holding any inquiry under section 5, the Tribunal may, subject to any rules that may be prescribed by the State Government in this behalf, follow such summary procedure as it deems fit.

(2) The Tribunal shall have all the powers of a Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed; and the Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1978.

(3) Subject to any rule that may be made in this behalf, the Tribunal may, for the purpose of adjudicating and deciding upon any claim for maintenance, choose one or more persons possessing special knowledge of any matter relevant to the inquiry to assist it in holding the inquiry.

Order for
maintenance

9. (1) If children or relatives, as the case may be, 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.

(2) 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.

Alteration in
allowance

10. (1) On proof of misrepresentation or mistake of fact or a change in the circumstances of any person, receiving a monthly allowance under section 5, for the maintenance or ordered under that section to pay a monthly allowance for the maintenance.

(2) Where it appears to the tribunal that, in consequence of any decision of a competent Civil Court, any order made under section 9 should be cancelled or varied, it shall cancel the order or, as the case may be, vary the same accordingly.

Enforcement of order of maintenance.

11. (1) A copy of the order of maintenance and including the order regarding expenses of proceedings, as the case may be, shall be given without payment of any fee to the senior citizen or to parent, as the case may be, in whose favour it is made and such order may be enforced by any Tribunal in any place where the person against whom it is made, such Tribunal on being satisfied as to the identity of the parties and the non-payment of the allowance, or as the case may be, expenses, due.

2 of 1974

(2) A maintenance order made under this Act shall have the same force and effect as an order passed under Chapter IX of the Code of Criminal Procedure, 1973 and shall be executed in the manner prescribed for the execution of such order by that Code.

2 of 1974.

12. Notwithstanding anything contained in Chapter IX of the Code of Criminal Procedure, 1973, where a senior citizen or a parent is entitled for maintenance under the said Chapter and also entitled for maintenance under this Act may, without prejudice to the provisions of Chapter IX of the said Code, claim such maintenance under either of those Acts but not under both.

Option regarding maintenance in certain cases.

13. When an order is made under this Chapter, the children or relative who is required to pay any amount in terms of such order shall, within thirty days of the date of announcing the order by the tribunal, deposit the entire amount ordered in such manner as the Tribunal may direct.

Deposit of maintenance amount.

14. Where any Tribunal makes an order for maintenance made under this Act, such Tribunal may direct that in addition to the amount of maintenance, simple interest shall also be paid at such rate and from such date not earlier than the date of making the application as any be determined by the tribunal which shall not be less than five per cent and not more than eighteen per cent.:

Award of interest where any claim is allowed.

2 of 1974

Provided that where any application for maintenance under Chapter IX of the Code of Criminal Procedure, 1973 is pending before a Court at the commencement of this Act, then the Court shall allow the withdrawal of such application on the request of the parent and such parent be entitled to file an application for maintenance before the Tribunal.

15. (1) **The State Government may, by notification in the Official Gazette, constitute one Appellate Tribunal for each district to hear the appeal against the order of the Tribunal:**

Constitution of Appellate Tribunal

(2) The Appellate Tribunal shall be presided over by an officer not below the rank of District Magistrate.

16. (1) Any senior citizen or a parent, as the case may be aggrieved by an order of a Tribunal may, within sixty days from the date of the order, prefer an appeal to the Appellate Tribunal:

Provided that on appeal, the children or relative who is required to pay any amount in terms of such maintenance order shall continue to pay to such parent the amount so ordered, in the manner directed by the Appellate Tribunal:

Provided further that the Appellate Tribunal may, entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) On receipt of an appeal, the Appellate Tribunal shall, cause a notice to be served upon the respondent.

(3) The Appellate Tribunal may call for the record of proceedings from the Tribunal against whose order the appeal is preferred.

(4) The Appellate Tribunal may, after examining the appeal and the records called for either allow or reject the appeal.

(5) The Appellate Tribunal shall, adjudicate and decide upon the appeal filed against the order of the Tribunal and the order of the Appellate Tribunal shall be final:

Provided that no appeal shall be rejected unless an opportunity has been given to both the parties of being heard in person or through a duly authorized representative.

(6) The Appellate Tribunal shall make an endeavour to pronounce its order in writing within one month of the receipt of an appeal.

(7) A copy of every order made under sub-section (5) shall be sent to both the parties free of cost.

Right to legal representation

17 Notwithstanding anything contained in any law, no party to a proceeding before a Tribunal or Appellate Tribunal shall be represented by a legal practitioner.

Maintenance Officer.

18 (1) The State Government shall designate the District Social Welfare Officer or an officer not below the rank of a District Social Welfare Officer, by whatever name called as Maintenance Officer.

(2) The Maintenance Officer referred to in sub-section, (1), shall

represent a parent if he so desires, during the proceedings of the Tribunal, or the Appellate Tribunal, as the case may be.

CHAPTER III

ESTABLISHMENT OF OLDAGE HOMES

Establishment of oldage homes.

19. (1) The State Government may establish and maintain such number of oldage 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.

(2) The State Government may, prescribe a scheme for management of oldage 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.

Explanation – For the purposes of this section, “indigent” means by senior citizen who is not having sufficient means, as determined by the State Government, from time to time, to maintain himself.

CHAPTER IV

PROVISIONS FOR MEDICAL CARE OF SENIOR CITIZEN

Medical support for senior citizen.

20. The State Government shall ensure that,-

(i) the Government hospitals or hospitals funded or partially by the Government shall provide beds for all senior citizens as far as possible;

(ii) separate queues be arranged for senior citizens;

(iii) facility for treatment of chronic, terminal and degenerative diseases is expanded for senior citizens;

(iv) research activities for chronic elderly diseases and ageing expanded;

(v) there are earmarked facilities for geriatric patients in every district hospital duly headed by a medical officer with experience in geriatric care.

CHAPTER V

PROTECTION OF LIFE AND PROPERTY OF SENIOR CITIZEN

Measures for publicity, awareness, etc., for welfare of senior citizen.

21. The State Government shall, take all measures to ensure that-

(1) the provisions of this Act are given wide publicity through public media including the television, radio and the print, at regular intervals;

(ii) the Central Government and State Government Officers, including the police officers and the members of the judicial service, are given periodic sensitization and awareness training on the issues relating to this Act;

(iii) effective co-ordination between the service provided by the concerned Ministries or Departments dealing with law, home affairs, health and welfare, to address the issues relating to the welfare of the senior citizens and periodical review of the same is conducted.

22. (1) The State Government may, confer such powers and impose such duties on a District Magistrate as may be necessary, to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer as may be prescribed.

Authorities who may be specified for implementing the provisions of this Act.

(2) The State Government shall prescribe a comprehensive action plan for providing protection of life and property of senior citizens.

23. (1) Where any senior citizen who, after the commencement of this Act, has transferred by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal.

Transfer of property to be void in certain circumstances.

(2) Where any senior citizen has a right to receive maintenance out of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.

(3) If, any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2) action may be taken on his behalf by any of the organization referred to in Explanation to sub-section (1) of section 5.

CHAPTER VI

OFFENCES AND PROCEDURE FOR TRIAL

24. 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 thousands rupees or with both.

Exposure and abandonment of senior citizen.

2 of 1974

25. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be cognizable and bailable.

Cognizance of offences.

(2) An offence under this Act shall be tried summarily by a Magistrate.

CHAPTER VIII

MISCELLANEOUS

45 of 1860

26. Every officer or staff appointed to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Officers to be public servants.

27. No Civil Court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any Civil Court in respect of anything which is done or intended to be done by or under this Act.

Jurisdiction of civil court barred.

28. No suit, prosecution or other legal proceeding shall lie against the Central Government, the state Governments or the local authority or any officer of the Government in respect of anything which is good faith or intended to be done in pursuance of this Act and any rules or orders made thereunder.

Protection of action taken in good faith.

29. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

Power of Central Government to give directions.

30. The Central Government may give directions to State Governments as to the carrying into execution of the provisions of this Act.

Power of State Government to make rules.

31. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the manner of holding inquiry under section 5 subject such rules as may be prescribed under sub-section (1) of section 8;

(b) the power and procedure of the Tribunal for other purposes under sub-section (2) of section 8;

(c) the maximum maintenance allowance which may be ordered by the Tribunal under sub-section (2) of section 8;

(d) the scheme for management of oldage 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 under sub-section (2) of section 19;

(e) the powers and duties of the authorities for implementing the provisions of this Act, under sub-section (1) of section 22;

(f) a comprehensive action plan for providing protection of life and property of senior citizens under sub-section (2) of section 22;

(g) any other matter which is to be, or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of State Legislature, where it consists of two houses or where such legislature consists of one House before that House.

STATEMENT OF OBJECTS AND REASONS

Traditional norms and values of the Indian society laid stress on providing care for the elderly. However, due to withering of the joint family system, a large number of elderly are not being looked after by their family. Consequently, many older persons, particularly widowed women are now forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. This clearly reveals that ageing has become a major social challenge and there is a need to give more attention to the care and protection for the older persons. Though the parents can claim maintenance under the Code of Criminal Procedure, 1973, the procedure is both time-consuming as well as expensive. Hence, there is need to have simple, inexpensive and speedy provisions to claim maintenance for parents.

2. The Bill proposes to cast an obligation on the persons who inherit the property of their aged relatives to maintain such aged relatives and also proposes to make provisions for setting up oldage homes for providing maintenance to the indigent older persons.

The Bill further proposes to provide better medical facilities to the senior citizens and provisions for protection of their life and property.

3. The Bill, therefore, proposes to provide for:-

(a) appropriate mechanism to be set up to provide need-based maintenance to the parents and senior citizens

(b) providing better medical facilities to senior citizens

(c) for institutionalization of a suitable mechanism for protection of life and property of older persons.

(d) setting up of oldage homes in every district.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 9th March, 2007.

MEIRA KUMAR

Notes on Clauses

Clause 1 provides for short title, extent, application and commencement of the proposed legislation. The proposed legislation shall apply to all citizens of India except the State of Jammu and Kashmir and it shall also apply to the citizens of India who are outside India.

Clause 2 seeks to define certain words and expression used in the Bill.

Clause 3 provides that the Bill to have overriding effect on the provisions of any other Acts which are inconsistent with the provision of the present Bill.

Clause 4 provides for entitlement for maintenance by a senior citizen including parent who is unable to maintain himself from his own earning or out of the property owned by him against one or more of his children not being a minor and in the case of a childless senior citizen against his relatives who would inherit his property.

Clause 5 inter alia provides for making application for maintenance by a senior citizen or a parent and if he is incapable, by any other person or organization authorized by him. The Tribunal may also take cognizance suo motu. It empowers the Tribunal to make monthly allowance during the pendency of the proceeding. It provides that an application for monthly allowance shall as far as possible be disposed of within ninety days from the date of the service of notice of the application. It also provides that an application for maintenance made against one or more persons and the children or relative may implead the other person liable to maintain, and the death of one of them does not affect the liability of others.

Clause 6 inter alia provides that an application for maintenance may be made by a senior citizen or parent against any children or relative in any district where the senior citizen or parent resides or where the children or relative resides. It provides that the Tribunal has to issue a process on receipt of an application and the Tribunal will have the powers of a Judicial Magistrate first class for securing the attendance of children or relative. It also provides that the Tribunal may before hearing the application refer the same to a Conciliation Officer for amicable settlement.

Clause 7 provides that the State Government may by notification in the Official Gazette constitute one or more Tribunals for each Sub-division and the Tribunal shall be presided over by an officer not below the rank of Sub-Divisional Officer of a State and where two or more Tribunals are constituted for any area, the State Government may, by general or special order, regulate the distribution of business among them.

Clause 8 provides that in holding any inquiry under this Act, the Tribunal may follow such summary procedure as it deems fit and for the purpose of taking evidence on oath and enforcing the attendance of witnesses and compelling the discovery and production of documents, the Tribunal shall have the powers of a Civil Court.

Clause 9 provides that if children or relatives neglect or refuse to maintain a senior citizen, 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 and the Tribunal may order the maintenance allowance as may be specified by the State Government by rules but it shall not exceed rupees ten thousand.

Clause 10 provides that on proof of misrepresentation or mistake of fact or a change in the circumstances of any person, receiving a monthly allowance, the Tribunal may make such alteration, as it thinks fit and the Tribunal may also cancel or vary the order of maintenance in consequence of an order of a Civil Court.

Clause 11 provides that a copy of the order of maintenance and expenses of proceedings shall be given to the senior citizen or parent free of cost and the order of maintenance made under this Bill will have the same force and effect as an order passed under Chapter IX of the Code of Criminal Procedure, 1973

Clause 12 provides that where a senior citizen or a parent is entitled for maintenance under this Act and also under Chapter IX of the Code of Criminal Procedure, 1973 relating to the maintenance of wives, children and parents or senior citizens will have the option to pursue their claim either under the Code of Criminal Procedure, 1973 or under the provisions of this Bill.

Clause 13 provides that the children or relatives who are required to pay any amount of maintenance ordered by the Tribunal shall deposit the entire amount within thirty days with the Tribunal in such manner as the Tribunal may direct.

Clause 14 provides that the Tribunal may direct the payment of interest of not less than five per cent and not more than eighteen per cent in addition to the amount of maintenance. It also provides that where an application for maintenance under Chapter IX of the Code of Criminal Procedure, 1973 is pending before a Court at the commencement of this Act, then such Court shall allow the withdrawal of such application on the request of the parent or senior citizen.

Clause 15 provides for constitution of Appellate Tribunal by the State Government presided over by an officer not below the rank of District Magistrate.

Clause 16 provides that a senior citizen or a parent aggrieved by the decision of the Tribunal has a right to prefer an appeal to the Appellate Tribunal within sixty days from the date of the order of the Tribunal. This clause also provides for procedure for hearing appeals against the orders of the Tribunal. The Tribunal shall make endeavour to decide the appeal within one month from the date of filing of appeal.

Clause 17 provides that the legal practitioners shall not participate in any of the proceedings before the Tribunals and Appellate Tribunals.

Clause 18 provides that the State Government shall designate the District Social Welfare Officer or an Officer not below the rank of a District Social Welfare Officer as Maintenance Officer who shall represent a parent if he so desires before a Tribunal or Appellate Tribunal.

Clause 19 provides that the State Government may establish the oldage homes in a phased manner for senior citizens who are poor. Further, it also provides that the State Government may prescribe a scheme for management of oldage homes including the standards and various types of services provided by them which are necessary for medical care and entertainment.

Clause 20 provides that the State Government shall ensure that beds be provided for all senior citizens in Government hospitals or hospitals funded fully or partially by the Government as far as possible. It also provides that separate queues be arranged for senior citizens; facility for treatment of chronic, terminal and degenerative diseases; research activities for chronic diseases shall be expanded and facilities for geriatric patients in every district hospital shall be earmarked.

Clause 21 provides that the State Government shall take measures to give wide publicity through public media including the television, radio and the print, at regular intervals, the provisions of the bill. It also provides that the State Government shall ensure that the officers of the Central Government and State Government including the police officers and the member of the judicial service are given periodic sensitization and awareness training on the issues relating to this Bill and effective co-ordination between the services provided by the concerned Ministries or Departments dealing with law, home affairs, health and welfare.

Clause 22 provides that the State Government may confer such powers and impose such duties on District Magistrates to ensure that the provisions of this Bill are properly carried out and the District Magistrates may specify the officers subordinate to them who shall exercise any of the powers and perform all or any of the duties conferred and the local limits within which such powers or duties shall be carried out. It also provides of life and property of senior citizens.

Clause 23 provides that if a senior citizen after the commencement of the provisions of this Bill, transfers his property by way of gift or otherwise with the condition that the transferee shall provide basic amenities and basic physical needs and such transferee fails or refuses to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and the transfer be declared void by the Tribunal at the option of the senior citizen. It also provides that where any senior citizen has a right to receive maintenance out of an estate or part thereof and such estate or part thereof is transferred, the right may be enforced against the transferee. It further provides that if any senior citizen is incapable of enforcing the rights, action may be taken on his behalf by any of the voluntary association registered under the Societies Registration Act, 1860 or any other law for the time being in force.

Clause 24 provides that any person who is having care or protection of any senior citizen intentionally abandons a senior citizen shall be liable for punishment of imprisonment up to three months or with fine which may extend to five thousand rupees.

Clause 25 provides that the offences under this Bill are cognizable and bailable and shall be tried summarily by a Magistrate.

Clause 26 provides that every officer appointed to exercise the functions under the proposed Bill shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Clause 27 provides that the jurisdiction of the Civil Courts is barred.

Clause 28 provides that no suit, prosecution or other legal proceeding shall lie against the Central Government, the State Government or the local authority or any officer of the Government in respect of any thing which is done in good faith or intended to be done in pursuance of this Act and any rules or orders made thereunder.

Clause 29 provides that the State Government may by notification in the Official Gazette remove any difficulty which may arise in implementing the provisions of this Bill. The said power may be exercised by the State

Government within a period of two years from the commencement of the present legislation.

Clause 30 empowers the Central Government to give direction to the State Governments for carrying into execution the provisions of the proposed legislation.

Clause 31 empowers the State Governments to make rules for carrying out the purposes of the proposed legislation. Every rule made by the respective State Governments shall be laid before the concerned State Legislature by that Government.

FINANCIAL MEMORANDUM

Clause 7(1) of the Bill provides for setting up of one or more Tribunals by the State Government for each Sub-division as may be specified in the notification for the purpose of adjudicating and deciding upon the order for maintenance of parents and senior citizens. Clause 7(2) provides that the Tribunal would be presided over by an officer not below the rank of Sub-Divisional officer of a State. Further, clause 15(1) provides that the State Government may be notification in the Official Gazette constitute one Appellate Tribunal for each district. Clause 15(2) provides that the Appellate Tribunal shall be presided over by an officer not below the rank of District Magistrate. Since the Bill proposes to utilize the existing machinery of the State Government, there would not be any additional expenditure.

2. Clause 19(1) of the Bill provides that the State Governments may establish and maintain such number of oldage 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. Clause 19(2) provides that the State Governments may prescribe a scheme for management of oldage homes. Since the projects will be implemented in a phased manner, there would be no immediate financial implications on the Consolidated Fund of India.

3. Clause 20 of the Bill provides for provision of better medical facilities to the senior citizens by the State Governments. Clause 21 provides for the State Governments to institutionalize a mechanism for protection of life and property of the senior citizens. Since the existing infrastructure will be utilized for achieving these objectives, no additional expenditure is expected to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 29 of the Bill empowers the State Government to issue orders for removing any difficulty arising in giving effect to the provisions of this Act, as appear to it to be necessary or expedient and not inconsistent with the provisions of this Act, by publishing the same in the Official Gazette.

Clause 30 of the Bill empowers the Central Government to give directions to the State Government as to carrying into execution of the provisions of this Act.

Clause 31 of the Bill empowers the State Government to make rules to carryout the provisions of the Act. Sub-clause (2) of that clause enumerates the matter with respect to which rules may be made under this clause.

These matters relate, to *inter alia*, prescribe the manner of holding inquiry under section 5 subject to such rules as may be prescribed under sub-section (1) of section 8; the powers and procedure of the Tribunal for the purpose of sub-section (2) of section 8; the maximum maintenance allowance which may be ordered under sub-section(2) of section 9; the scheme for management of old age homes including the standards of various types of services to be provided by them under sub-section (2) of section 19; the powers and duties of authorities for implementing the provisions of this Act under sub-section (1) of section 22; a comprehensive action plan for protection of life and property of senior citizens under sub-section (2) of section 22.

Sub-clause (3) of clause 31 of the Bill provides for laying of the rules before each House of the State Legislature where it consists of two Houses or where such legislature consists of one House before that House.

The matters in respect of which rules and orders may be made are matters of administrative details and procedure and, it is not practicable to make provisions for them in the Bill. The delegation of legislative power is, therefore, of a normal character.

LOK SABHA

A

BILL

to provide for more effective provisions for the maintenance and welfare of
parents and senior citizens guaranteed and recognized under the
Constitution and for matters connected therewith or incidental thereto.

(Smt. Meira Kumar, Minister of Social Justice and Empowerment)

MGIPMRND-1177LS(S5)-16.03.2007.

**MINUTES OF THE FOURTEENTH SITTING OF THE STANDING COMMITTEE
ON SOCIAL JUSTICE AND EMPOWERMENT HELD ON THURSDAY, 17th
MAY, 2007.**

The Committee met from 1500 hrs. to 1615 hrs. in Committee Room 'B'
Parliament House Annexe, New Delhi.

PRESENT

Smt. Sumitra Mahajan - CHAIRPERSON

**MEMBERS
LOK SABHA**

2. Shri Mahaveer Bhagora
3. Dr Babu Rao Mediyam
4. Shri Rupchand Murmu

RAJYA SABHA

5. Shri Urkhao Gwra Brahma
6. Shri Silvius Condpan
7. Dr. Narayan Singh Manaklao
8. Shri Abdul Wahab Peevee
9. Shri Dharam Pal Sabharwal
10. Shri Nand Kishore Yadav

SECRETARIAT

1. Shri R.K. Saxena - Director
2. Shri Bhupesh Kumar - Deputy Secretary

REPRESENTATIVES OF THE MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT

1.	Dr. (Smt.) Veena Chhotray	Secretary
2.	Shri Sundeep Khanna	Additional Secretary
3.	Dr. Arbind Prasad	Joint Secretary
4.	Shri G.K. Singh	Director
5.	Shri V.B. Pachnanda	Director

2. At the outset, the Chairperson welcomed the Members and representatives of the Ministry of Social Justice and Empowerment to the sitting of the Committee. The Chairperson then pointed out that “The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007” has been referred by the Hon’ble Speaker, Lok Sabha to the Committee for examination and report within three months and asked the Secretary, Ministry of Social Justice and Empowerment to explain various provisions of the Bill. The Secretary, Ministry of Social Justice and Empowerment explained the various provisions of the Bill as well as the background and need for the proposed legislation. She also responded to the various queries put forth by the Members to the extent possible. The Chairperson then directed the Secretary to furnish the information which could not be made available during the meeting.

(The witnesses then withdrew).

3. The Committee decided to hear the views/suggestions of non-official experts / NGOs who are concerned/interested in the maintenance and welfare of Parents and Senior Citizens.

The verbatim record of the proceedings has been kept.

The Committee then adjourned.

**MINUTES OF THE FIFTEENTH SITTING OF THE STANDING COMMITTEE ON
SOCIAL JUSTICE AND EMPOWERMENT HELD ON FRIDAY, 8th JUNE,
2007.**

The Committee met from 1500 hrs. to 1700 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Smt. Sumitra Mahajan - CHAIRPERSON

**MEMBERS
LOK SABHA**

2. Shri Eknath M. Gaikwad
3. Shri Haribhau Jawale
4. Shri Tek Lal Mahato
5. Dr. Babu Rao Mediyam
6. Shri Kailash Meghwal
7. Shri Rupchand Murmu
8. Shri Jual Oram
9. Shri Ram Chandra Paswan
10. Shri Rabindar Kumar Rana
11. Dr. R. Senthil
12. Shri Lalit Mohan Suklabaidya
13. Smt. Usha Verma

RAJYA SABHA

14. Shri Silvius Condpan
15. Dr. Narayan Singh Manaklao
16. Dr. Radhakant Nayak
17. Shri Dharam Pal Sabharwal
18. Ms. Anusuiya Uikey
19. Shri Nand Kishore Yadav

SECRETARIAT

1. Shri R.K. Saxena - Director
2. Shri Bhupesh Kumar - Deputy Secretary

NON-OFFICIAL WITNESSES

1. Dr. P.V. Ramamurthi, Hony. Director, Centre for Research on Ageing, Sri Venkateshwara University, Tirupati.
2. Shri Raman Bhai Shah, President, All India Senior Citizens Confederation, Pune
3. Mrs. Vidya Ben Shah, President, Senior Citizens Service Forum, New Delhi.
4. Mr. N.L. Kumar, President, Age Care India New Delhi
5. Dr. Ruchika Kuba, School of Health Science IGNOU, New Delhi
6. Prof. Anand Kumar, Centre for Social Sciences, J.N.U., New Delhi.

2. At the outset, the Chairperson welcomed the Members and non-official experts/office bearers of NGOs concerned with care and welfare of senior citizens. She informed that “The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007”, has been referred to the Committee on Social Justice and Empowerment for examination and report. The Bill provides for more effective provisions for maintenance and welfare of parents and senior citizens guaranteed and recognized under the

Constitution. The Chairperson then asked the witnesses to give their views/suggestions on various aspects of the Bill.

3. The non-official experts/office bearers of NGOs put forth their views/suggestions on various provisions of the Bill for the consideration of the Committee and also clarified the queries raised by the Members on their suggestions. The Chairperson then directed them to furnish more information on various aspects of the Bill, if they so desire.

A verbatim record of the proceedings has been kept.

The Committee then adjourned.

MINUTES OF THE SEVENTEENTH SITTING OF THE STANDING COMMITTEE ON SOCIAL JUSTICE AND EMPOWERMENT HELD ON TUESDAY, 17th JULY, 2007.

The Committee met from 1100 hrs. to 1230 hrs. in Committee Room No. '139', Parliament House Annexe, New Delhi.

PRESENT

Smt. Sumitra Mahajan - CHAIRPERSON

MEMBERS

LOK SABHA

2. Shri Mahaveer Bhagora
3. Shri Eknath M. Gaikwad
4. Shri Loganathan Ganesan
5. Shri Haribhau Jawale
6. Shri Tek Lal Mahato
7. Dr. Babu Rao Mediyam
8. Shri Kailash Meghwal
9. Shri Rupchand Murmu
10. Shri Jual Oram
11. Shri Ram Chandra Paswan
12. Shri P.A. Sangma
13. Dr. R. Senthil
14. Smt. Pratibha Singh
15. Shri Lalit Mohan Suklabaidya
16. Smt. Usha Verma

RAJYA SABHA

17. Shri Urkhao Gwra Brahma
18. Shri Silvius Condpan
19. Dr. Narayan Singh Manaklao
20. Shri Abdul Wahab Peevee
21. Shri Dharam Pal Sabharwal
22. Ms. Anusuiya Uikey
23. Shri Nand Kishore Yadav

SECRETARIAT

1. Shri Ashok Sarin - Joint Secretary
2. Shri R.K. Saxena - Director
3. Shri Bhupesh Kumar - Deputy Secretary

MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT

1. Dr. (Smt) Veena Chhotray - Secretary
2. Dr. Arbind Prasad - Joint Secretary
3. Shri V.B. Pachnanda - Director
4. Shri Satyendra Prakash - Director, National Institute of Social Defence

MINISTRY OF LAW AND JUSTICE (LEGISLATIVE DEPARTMENT)

1. Shri N.L. Meena - Joint Secretary

2. At the outset, the Chairperson welcomed the Members and representatives of the Ministry of Social Justice and Empowerment and the Ministry of Law and Justice (Legislative department) to the sitting of the Committee, convened to take oral evidence on “The Maintenance and Welfare of Parents and Senior Citizen Bill, 2007.”

3. The Hon'ble Chairperson then requested the Secretary, Ministry of Social Justice and Empowerment to explain the salient aspects of the Bill. She asked how the Bill would prove more beneficial for the parents and senior citizens and in what manner and to what extent this will mitigate their problems.

4. The Secretary, Ministry of Social Justice and Empowerment explained the salient aspects of the Bill and responded to the various queries put forth by the Chairperson and the Members of the Committee. The representatives of the Ministry of Law and Justice also clarified the points, relating to legislative aspect of the Bill, raised during the meeting.

5. Hon'ble Chairperson then thanked the officials of the Ministry of Social Justice and Empowerment and the Ministry of Law and Justice for giving valuable information to the Committee and expressing their views in a candid manner.

A verbatim record of the proceedings has been kept.

The Committee then adjourned.

**MINUTES OF THE FIRST SITTING OF THE STANDING COMMITTEE ON
SOCIAL JUSTICE AND EMPOWERMENT HELD ON FRIDAY, 31st AUGUST,
2007.**

The Committee met from 1500 hrs. to 1615 hrs. in Committee Room 'B', Parliament House Annexe, New Delhi.

PRESENT

Smt. Sumitra Mahajan - CHAIRPERSON

**MEMBERS
LOK SABHA**

2. Mohd. Shahid Akhlaque
3. Shri Mahaveer Bhagora
4. Dr. Babu Rao Mediyam
5. Smt. Pratibha Singh
6. Shri Lalit Mohan Suklabaidya
7. Smt. Usha Verma

RAJYA SABHA

8. Shri Silvius Condpan
9. Dr. Narayan Singh Manaklao
10. Shri Abdul Wahab Peevee
11. Shri Dharam Pal Sabharwal
12. Ms. Anusuiya Uikey
13. Shri Nand Kishore Yadav

SECRETARIAT

1. Shri R.K. Saxena - Director
2. Shri Bhupesh Kumar - Deputy Secretary

2. At the outset Hon'ble Chairperson welcome the Members and congratulated them on the re-nomination to the Committee for the term 2007-08.

3. XXX XXX XXX.

4. XXX XXX XXX

5. Thereafter, the Committee considered the draft Twenty-eighth Report on "The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007" and adopted the same with some minor modifications.

The Committee then adjourned.

APPENDIX

STATEMENT OF OBSERVATIONS/RECOMMENDATIONS

Sl. No.	Para	Observations/Recommendations
1	2	3
1.	1.19	<p>The Committee note that the Union Government have brought out a Bill for the maintenance and welfare of parents and senior citizens. The Committee, however observe that though the Government have incorporated the term 'welfare' in the title of the Bill, yet no efforts have been made to define the term in Clause 2 of the Bill. Keeping in view the fact that welfare is a generalized term and Clause 2 being the Definition Clause of the Bill, the Committee desire that the scope and extent of the term 'welfare' in relation to the proposed legislation, should be specifically defined under Clause 2 of the Bill. The Committee, therefore, recommend that in Chapter I, clause 2, <u>add</u> sub clause 'k' 'welfare' means provision of food, health care, recreation centres and other amenities necessary for the well being of the senior citizens. In addition to thrust on legal action for maintenance, focus should be given in the proposed legislation on the welfare for parents and senior citizens.</p>
2	1.20	<p>The Committee also note that as per the provisions of the proposed legislation, all actions related to its implementation are intended to be taken only by the State Governments. Clause 1(3) of the Bill states that it shall come into force in a State on such date as the State Government, may provide, by notification in the Official Gazette. Further, Clause 30 of the Bill empowers the Union Government to give directions to the State Governments to carryout execution of the proposed legislation. The Committee are of the opinion that although onus for implementation of the proposed legislation is laid on the State Governments, no time frame has been stipulated in the Bill for the States to implement it. The Committee, expect the Government to play a proactive role in the implementation of the proposed legislation by the State Governments in a time bound manner so that parents and senior citizens are accorded proper maintenance and adequate welfare measures are undertaken for their care and protection. The Committee also feel that the Government cannot absolve themselves of the responsibility to provide due maintenance and care to parents and senior citizens and limit their role only to issue of directives to the State Governments. The Committee therefore, desire that the role of the Union Government, to ensure maintenance and welfare of the parents and senior citizens, should also be defined</p>

specifically in the Bill. To make the services for old age people cost effective, involvement of private sector, community organizations and corporate sector may also be explored.

3. 1.24 The Committee note that as per the provisions of 'The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007', the Act, when enforced shall be applicable to the whole of India as well as to the citizens of India living abroad except in the State of Jammu and Kashmir. The Committee find no justification in excluding the State of Jammu and Kashmir from the ambit of the proposed legislation as it deals with social and family issues. During evidence the representative of the Ministry of Law and Justice also clarified that the proposed legislation is related to Entry 23 of the Concurrent List which provides for 'social security, social insurance, employment and unemployment'. Further, according to them 'Prima facie there is no bar to annexe it'. The Committee, therefore, recommend that Clause 1(2) of the Bill should be amended to bring within its ambit the State of Jammu and Kashmir also so that the benefits of the proposed legislation could be enjoyed by parents and senior citizens living in that State.
4. 1.28 Clause 5 (4) of the Bill stipulates that an application filed under sub-section (2) for the monthly allowance, for the maintenance and expenses for proceeding shall, as far as possible be disposed of within ninety days from the date of the service of notice of the application to such person. The Committee are not convinced with the reason given by the Government in their reply that the phrase '*as far as possible*' has been included in Clause 5(4) of the Bill to resolve successfully the eventuality where it may not be practically possible to dispose of an application for maintenance within ninety days from the date the notice of the application was served to a person. The Committee feel that the very purpose of the Bill to provide simple, inexpensive and speedy mechanism to claim maintenance by parents may be mitigated as the provision can be misused to unjustifiably delay the disposing of the maintenance claims. The Committee, therefore, recommend that the phrase '*as far as possible*' be deleted from Clause 5(4) of the Bill. Instead after the words application to such persons it may be added that 'In exceptional circumstances, one time extension for a maximum period of 90 days may be considered for disposal of the proceedings by the Tribunal'.
5. 1.35 The Committee note that in the proposed legislation, the Government have not made any provision to financially assist the State Governments to constitute Tribunals for adjudicating and deciding upon the order for maintenance and Appellate Tribunals to hear the appeal against the order of the Tribunals.

The Government have informed that the States are expected to implement the provisions of the Bill effectively with their existing machinery. The Committee however feel that the States may not be able to cope up with the increased workload and responsibility with the existing machinery and would require more funds for infrastructural facilities in setting up the Tribunals and Appellate Tribunals. The Committee, therefore, recommend that grants-in-aid be given to the State Governments for setting up Tribunals and Appellate Tribunals and for creation of related infrastructure so that effective implementation of the Bill does not suffer due to lack of funds.

6. 1.36 The Committee are constrained to note that no time limit has been stipulated in the proposed legislation for setting up Tribunals and Appellate Tribunals by the State Governments. In order to make the States more accountable and to ensure early implementation of the provisions of the Bill, the Committee desire that the Government should stipulate a time period, preferably six months for setting up the Tribunals and Appellate Tribunals from the date the Act comes into force.
7. 1.42 The Committee note that establishment of old age homes for senior citizens who are indigent, in every district of the State, is one of the objectives of the proposed legislation. However, no provision has been made to provide funds for the establishment and maintenance of old age homes. The Government have informed that they are in the process of formulating a new scheme to sanction grants-in-aid to State Governments for construction of old age homes/multi service centres. The Government would also continue to provide assistance for maintenance of old age homes under its existing scheme of 'Integrated Programme for Older Persons'. The Committee however feel that since establishment of old age homes is stipulated in the proposed legislation, the Government should make adequate provision for grants-in-aid to the State Governments for establishing and maintaining old age homes in the proposed legislation itself, for which suitable amendment in the proposed legislation may be made. The Committee also urge upon the Government to formulate a long term plan to establish adequate number of well maintained Old Age Homes through out the country at the earliest so that maximum number of deserving and destitute senior citizens could be accommodated in such Homes.
8. 1.43 Clause 19 (2) of Chapter III of the Bill provides for provision for 'means of entertainment' for the inmates of old age homes. The Committee, desire that provision for facilities for setting up 'Recreation Centres' for senior citizens living in the old age homes should also be incorporated in the proposed legislation to create an atmosphere where the senior citizens would be able to relax and rejuvenate physically and mentally. The Committee,

therefore, recommend that the words 'Recreation Centres' should be suitably inserted in Clause 19(2) of the Bill.

9. 1.44 The Committee also desire that as part of their welfare programme for senior citizens, State Governments should set up old age homes close to orphanages so that the young children are brought under the guidance and experience of the aged persons and both would benefit from interacting with each other and also psychologically compliment each other. The Committee urge the Government to issue necessary directions to the State Governments for consideration and implementation in this regard.
10. 1.51 The Committee note that the Government have not made any inroad so far in the field of group health insurance for senior citizens though the Insurance Regulatory and Development Authority, which is the regulator in the field, has constituted an Expert Committee on health insurance for senior citizens. The Committee do not agree with the views of the Government that insurance coverage is mostly required in critical illness and at places where adequately equipped hospitals are not available. They are also not inclined to agree to the Government view that Group Health Insurance is a subject whose dimensions and parameters are entirely different from that of social legislation. The Committee are of the firm view that for the benefit of senior citizens, particularly belonging to poor families with dwindling financial position and those suffering from chronic diseases or having deteriorating health conditions, the Government have to broaden their approach and introduce group health insurance for their welfare. The Committee, therefore, recommend that under clause 20 of the Bill, insert 'sub-clause vi' as follows "All senior citizens to be covered under Group Health Insurance."
11. 1.52 The Committee observe that in rural areas it is difficult for older persons to get proper medical treatment for their ailments due to various reasons. The Committee, therefore, urge the Government to examine the feasibility of making mandatory provision in the Bill for the doctors working in hospitals to conduct medical camps in various parts of the country, especially in rural and far flung areas, to take care of medical needs of older persons. The Committee further recommend that private hospitals, getting concessional land or other facilities from the Government, may also give concession towards consultation and treatment to the older persons.
12. 1.55 As per Clause 22(2) of the Bill, the onus for preparing a comprehensive action plan for protection of life and property of senior citizens has been laid upon the State Governments. The role of the Union Government is limited only to give direction/guidance to State Governments. Keeping in view the current scenario of law and order and eroding sense of morality, the Committee recommend that more concrete, effective and

mandatory provisions, to protect the life and property of the senior citizens, who become soft targets of criminal elements in their old age, should be made in the Bill. The Committee also desire that a provision should be made in the Bill to guarantee the right to residence of the parents in the house, even if constructed by their son from his personal earnings as it would ensure protection of their life. Although protection of life and property basically pertains to law and order which is a State subject, yet State Governments can be asked to take some measures like establishment of Senior Citizens Service and Information Centres in each district, to provide information on the services/concessions available to the senior citizens, for registration of senior citizens with respective police station, periodic visits by NGOs etc. The Committee recommend that these measures should be incorporated in the Bill.

13. 1.61 The Committee note with concern that one of the most important means of social security for senior citizens i.e., old age pension has been left out of the ambit of 'The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007'. The reason advanced by the Government that a conscious decision has been taken not to make it a statutory obligation as it will lead to serious and uncertain financial implications does not carry any weight taking into consideration the larger objective of welfare of the older persons. It is pertinent to note that State Governments are implementing Old Age Pension Scheme in their respective States but the amount of pension and the age / other criteria for eligibility are not uniform among the States. Therefore, in order to ensure that senior citizens are provided financial security, the Committee urge upon the Government to play a proactive role by making it statutory obligation on the part of the State Governments to disburse uniform and adequate old age pension to the senior citizens.
14. 1.64 The Committee note with concern that no provision has been made in the Bill to provide emotional and psychological support and care to the senior citizens, particularly those above the age of seventy and widowed women. This group of senior citizens often spend their twilight years lonely, in a state of negligence and deprivation. The Committee, therefore, desire that the Government should make provision for setting up Help line, Counseling Centres etc. to cater to the emotional needs of the most vulnerable amongst the senior citizens and widowed women.