

**Study on the Working of the  
MAINTENANCE AND WELFARE OF PARENTS AND  
SENIOR CITIZENS ACT 2007 IN KERALA**

**R E P O R T**

**Prepared for  
KERALA STATE PLANNING BOARD  
PATTOM, THIRUVANANTHAPURAM**

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## **P R E F A C E**

This is a study on the working of the Maintenance and Welfare of Parents and Senior Citizens Act 2007 in the State of Kerala with special focus on the Petitioners and Defendants. It looks into the social dynamics of the working of the Act in terms of its impact on the Petitioners, Defendant, Kin and other stake holders including members of the family. The study has gone into details about the family life and attitude and behavior towards each other of the petitioners and defendants before going to the Tribunal, in the process of the hearing and after the verdict by the Tribunal. The final feelings of the two parties about their action in going to the Tribunal and their views about the Act also have been explored.

The experiences and suggestion of the Maintenance Tribunal, Appellate Tribunal and other related officials and non-officials including Counselors also have been incorporated in the study.

For the successful conduct of the study we are grateful to several important persons. We are primarily indebted to the Petitioners and Defendants who fully co-operated with our study team and provided the data required for the study. We express our sincere thanks to them for this assistance.

Similarly, the officials and non-officials involved in the study also co-operated with us fully and helped us with the required data for the study. We extend our gratitude to them for this kind of assistance.

We wish to express our gratitude to our Research Team which enthusiastically conducted and completed their assignment to our full satisfaction.

Special thanks is due to Dr. Jacob John Kattakayam, Director of the Centre, for assisting us in the preparation of the Report.

Finally we express our thankfulness to the Kerala State Planning Board for their confidence in us and for entrusting us with the study.

It is our sincere hope that the sponsors of the study and those who will have occasion to peruse it will find the study useful.

**Dr. P.K.B. Nayar**

# **Chapter 1**

## **Introduction and Background**

### **Introduction**

India has had a cherished history and tradition of respecting and honoring the elders of the family. As per Indian tradition it has been the responsibility of the son to take care of his parents in their old age. This is still the core cultural practice in many parts of India although the changes that have taken in the society have altered the traditional ways of life in the families in India especially the Joint family system where different generations of the same family used to live under one roof. But as the society developed, the joint family system was replaced by the nuclear family system. As this change occurred in families, the elders were left without a place and they started to be treated as a burden which then escalated to them being physically, mentally and verbally abused.

Today as India moves closer to become the most populous country in the next 7 years, the country is facing another serious concern about ageing population. According to some studies, India is ageing much faster than previously thought and may have nearly 20 per cent population of 60 years and above by 2050. The government recently stated in Parliament that India will have 34 crore people above 60 years of age by 2050, that would be more than the total population of the US. The numbers are even higher than projected by international agencies like UN and Help Age India. These agencies had projected the 60-plus population in India to rise to nearly 32 crore by 2050. The plight of the elderly is ever more important due to the fact that they now form a considerable percent of the population and the life expectancy has gone up and the demographic changes have not been well accommodated into the growing socio-economic needs of the elderly.

The issue of elder neglect has received an ever expanding set of formal legal responses right from the period of British rule in India. The British rule responded to the situation by highlighting the Family Support Dimension and Preventive Dimension through both the Code of Criminal Procedure 1873 and the Indian Penal Code 1860. The next milestone in formulating legal responses to the issue of elderly neglect can be evidenced in the formulation and adaptation of the Constitution of India through its grand provision of Fundamental Human Rights and the Directive Principles of State Policy. In India apart from the constitutional protection offered to the elderly there are personal laws and the code of criminal procedure that offer legal protection to the elderly.

The government of India approved the National Policy for Older Persons on January 13, 1999 in order to accelerate welfare measures and empower the elderly in ways beneficial for them. This policy included setting up of a pension fund for those in the unorganized sector, construction of old age homes and day care centres for every 3 – 4 districts, establishment of resource centres and re-employment bureaus for people above 60 years, concessional rail/air fares for travel within and between cities and enacting legislation for ensuring compulsory geriatric care in all the public hospitals.

## **Background**

After more than sixty years of adoption of the Constitution of India it took nearly fifty years for a separate policy for the older persons of India and it took another eight years to enact a law for two limited purposes of maintenance and welfare rights of older persons. The enactment of the Maintenance and Welfare of Parents and Senior Citizens Act 2007 was a landmark initiative by the Government of India.

The highlights of the Maintenance and Welfare of Parents and Senior Citizens Act 2007 are as follows:

- The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 seeks to make it a legal obligation for children and heirs to provide maintenance to senior citizens. It also permits state governments to establish old age homes in every district.
- Senior citizens who are unable to maintain themselves shall have the right to apply to a maintenance tribunal seeking a monthly allowance from their children or heirs.
- State governments may set up maintenance tribunals in every sub-division to decide the level of maintenance. Appellate tribunals may be established at the district level.
- Any petitioner unsatisfied with the order of the tribunal can approach the Appellate tribunal within 60 days from the date of the order of the tribunal.
- Application filed for monthly allowance shall be disposed of by the tribunal within 90 days.
- Proceedings of the application shall be taken in any district (a) where the senior citizen or parent resides/ last resided or where the children or relatives reside.
- State governments shall set the maximum monthly maintenance allowance. The Bill caps the maximum monthly allowance at Rs 10,000 per month.
- Maintenance allowance shall be deposited by children/relative within 30 days from the date of announcing the order of the tribunal.
- Punishment for not paying the required monthly allowance shall be Rs 5,000 or up to three months imprisonment or both.
- Either parties involved in the proceedings are not allowed to be represented by a legal practitioner.

The Maintenance and welfare of parents and senior citizens act has been adopted by all the states of India except Jammu Kashmir and Himachal Pradesh which have their own Acts. The states that have enforced the Act have established Maintenance Tribunals, Appellate Tribunals and Maintenance officers to enact and enforce the MWPSCA. They have also introduced Rules for the enforcement of the Act.

### **Situational analysis of the elderly in Kerala**

Kerala is aging faster than the rest of India. It's 60 plus population constituted 5.1 per cent of the total in 1961 and was just below the national 5.6 per cent. Since 1980, Kerala has overtaken the rest of India and the 2001 rate is 10.5 per cent against India's 7.5%. By 2011, 12.6 per cent of the population in Kerala was already past 60 years. By 2026, Kerala will have 6.3 million elders in the 60-74 age group and two million aged 75 years and more. Kerala's longevity is largely due to high quality healthcare. The State's elderly population is growing at a perpetual rate of 2.3 per cent. The growth rate is high among the elderly aged 70 or 80 and above. Currently 42 lakh people of Kerala are 60 and above; 13 per cent of them are 80 years and over which is the fastest growing group among the old. Women outnumber men among the 60 plus and among them, majority are widows. Kerala has got the highest life expectancy at birth. The life expectancy at birth in Kerala is 71.8 years and 77.8 years for males and females respectively as per the SRS Report 2009-13. There are 8,217,434 households in Kerala with a population of 34,254,086 and in this, senior family members is 4,233,474, constituting 12.36 per cent of total family members

The most common disability among the aged persons was loco motor disability and visual disability (Census 2011). Persons suffering from Alzheimer's disease have increased to 35041. In Kerala, 4,260 senior citizens with disabilities live in institutions of which 2,352 are females and 1908 males. The 80 plus in this are 570. The number of households where all members are senior members is 432,953. This is 5.27 per cent of total Families/ households. The number of senior female members is 2,298,716 which are 54.3 per cent and the number of senior male members is 1,934,758 which are 45.7 per cent.

According to the census 2011 – there are 7 states with elderly population above the national average and in this Kerala leads, with 12.3 % followed by Tamil Nadu – 11.2, Himachal - 10.3, Punjab – 9.7, Karnataka – 9.2. Generally, life expectancy among women is higher than men (this is a global phenomenon); however, it is much higher in Kerala and men marry women a few years younger which explains the high proportion of widows among the old. NSS Survey 2015 on morbidity indicates that 65 per cent old are morbid.

In Kerala, the culture of sending elderly persons to Old Age Home is fast developing. Majority of old age people in Kerala are widows. In 1991, among the old age people in the range of 60-69, 53.8 % were widows and among those above 70 years this comes to 69.20

%. By 2025, about 20 per cent of Kerala's population will be elderly and the demand on the social security system will be really enormous. In 1991, among the old age people in the range of 60-69, 53.8 % were widows and among those above 70 years it comes to 69.20 %. By 2025, about 20 per cent of our population would be elderly and the demand on the social security system would be really enormous. The ratio of the dependent population to that of the working age population is defined as the dependency ratio; this is an important indicator of the economic burden carried by each worker. Old age dependency is the ratio of persons aged 60 years and above to the working age population.

The 'Old' Dependency Ratio in India as per 2011 census is 142 and in Kerala it is 196 due to higher life expectancy at birth. The old age dependency ratio shows an increasing trend in Kerala and is highest among Indian States (Elderly in India 2016, Ministry of Statistics and Programme Implementation, GOI). The increase in dependency ratio implies obviously that the proportion of elderly in the total population increases as a proportion to the working population.

## **Objectives of the Study**

This is a study on the working of the MWPSA Act 2007 in Kerala to find out the extent to which and the processes through which a senior citizen, abandoned by kin, gets redressal of his/her grievances through the Maintenance Tribunal set up under the Act. The study also goes into the family dynamics that led the victim to approach the Tribunal and his relationship with the estranged kin after the verdict by the Tribunal. In this sense the study will focus attention on both the parent and the child (-ren) – (son/daughter) before, during and after the event. Further, the study goes into the operational dynamics of the Act, i.e., the various problems faced by the clients, the Maintenance Tribunal, the Appellate Tribunal, the Maintenance Officers and related personnel including Counselors in the process of implementation of the Act. Finally, the study probes into the needed changes that are felt and expressed by the stakeholders.

The study also goes briefly into the condition of Old Age Homes in Kerala and Medical Care of senior citizens which also form part of the Act.

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## **Chapter 2**

# Methodology

## Sources of data

This is a study using triangulated methodology. Data has been collected (1) from existing literature, records, documents and other available sources, (2) through personal interviews of affected senior citizens and the defending parties, (3) discussion with officials and knowledgeable persons and others involved in or related to the issue, (4) observation of the parties at the hearing and in other contexts, and (5) field notes of the Investigators. **Population and sample**

The study was conducted in all the 14 Districts in Kerala. There are 21 Tribunals in the State.(Some Districts have more than one Tribunal). As of March 2017, 9893 applications were received from Petitioners and of these 8065 applications were disposed of. We took the 8065 settled cases as the population for the study. We first thought of taking proportionate samples from each Sub Divisional Office (SDO) but found this will be quite unreasonable as some SDOs like Thiruvananthapuram had over 1000 applications while some other SDOs like Devikulam had only 125 cases. Hence we decided to take 30 Petitioners from each Tribunal Office. The method satisfied two criteria for a good sample - Reasonable coverage of background of respondents and adequacy of sample size. Though we collected equal samples of both sexes, we got more women petitioners at the end (54% against 46%). From each Tribunal Office, 10 Defendants involved in the cases selected from among the Petitioners were also chosen for interview. In this case the sex ratios found to be reversed - 69% men against 31% women. (Details are given in the respective chapters). Both categories were chosen by representative sampling method. They were interviewed by using detailed schedules (one for each category) which enquired, among other things, into their socio economic background, ground for complaint, process of handling the case at the Tribunal's office, outcome of the case, satisfaction with the verdict, and the relationship of the petitioner to the defendant before, during the process of hearing and after the verdict. Further, all the 21 Tribunals, 21 Maintenance Officers, 21 Conciliation Officers and 14 Appellate Tribunals were interviewed with checklists. Total 630 Petitioners, 210 Defendants, 21 Maintenance Tribunals, 14 Appellate Tribunals, 14 Maintenance Officers and 21 Conciliation Officers. Total 917 Interview of the Petitioners was done with the help of a lengthy interview schedule which collected all the information required for the study. The questions covered inter alia the family life of the petitioner before the filing of the Petition and post-verdict life. ((For other details, please see above).Interview of the defendants was done on similar but not identical lines to bring out the earlier family life and dynamics with the plaintiff and post-verdict relationship.



Data collected from officials and non-officials was based on Interview Schedules and Check Lists and covered all the information required for arriving at a meaningful conclusion on the situation.

### **Tools of field data collection**

As the study uses a triangulated methodology, different methods of data collection were used. The main tool, of course, is Interview Schedule one for the petitioners and another for the defendants. Information from Maintenance Tribunals, Conciliation Officers and Appellate Tribunals was also collected through interview schedules as well. These tools were structured to get all the information needed for the study. Besides structured interviews, check lists and the method of observation also were used. The Field Assistants recorded their observations on the last page of the interview schedule where space was provided for the Interviewers' observations.

### **Analysis of data**

The quantitative part of the data was analyzed with the help of computer and the qualitative part by manual analysis. Tables were prepared to find out the relationship between variables. Details regarding the Petitioners, the defendants and the officials and the social dynamics of the different situations and episodes are analyzed in this section.

### **The Report**

The Report contains 4 Parts (though not divided into parts) - first part covers introduction and methodology, second part deals with the profile of the petitioners and analysis of the interview data with some Case Studies and suggestions, the third part deals with the different Interview Schedules used for the study and the fourth part deals with the MWPSA Act 2007 and the Rules prepared by the Government of Kerala for its implementation.

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## **Chapter 3**

# **Socio-Economic and Health Profile of the Petitioner**

### **Socio-Economic Profile**

The study on the working of the Maintenance and welfare of parents and senior citizen Act is primarily focused on the beneficiaries who are hereafter referred to as the Petitioners. As part of the study 630 petitioners were interviewed from 21 Revenue divisional offices (RDOs) spread across the state of Kerala. From each RDO a total of 30 petitioners were interviewed and this chapter delves into the socio economic and health profile of the petitioners.

An equal division of male and female was proposed in the study but in the due process of data collection this division could not be maintained as it was found that more female petitioners were available than male petitioners with 54% female petitioners. Many of the male petitioners who were approached by the investigators were found to be deceased. In the case of the sample of defendants, there were more men than women (69% and 31% respectively).

In terms of place of residence, 63% of the petitioners resided in the rural area and only 9% stayed in the urban area; this shows that the petitioners of the rural area have more awareness about the Act than those from the urban area. In order to understand the religious back ground of the petitioners 5 major religious groups were identified - Hindu Forward, Hindu Backward, Hindu SC/ST, Christian and Muslim. Majority of the petitioners belonged to the Hindu backward religion with 34%, with the least number of petitioners being from the SC/ST category with only 4%.

The Educational background of the petitioners was looked into. 56% of the petitioners had primary education whereas only 3% had educational qualifications up to degree. This educational qualification has in a way translated into the occupational status as well with 83% of the petitioners not working and only 1% of the petitioners engaged in business activities or have had government employment. Since 83% petitioners are not working their source of income is limited and less, with 47% of petitioners having a monthly income between Rs.1000 – Rs.3000 and only 6% having income between Rs.3000 – Rs.5000. The prominent stated source of income for the petitioners was old age pension with 70% of the petitioners stating old age pension as their sole source of income and only 1% getting income from property and business.

The living arrangement of the petitioners was also looked into. The petitioners were asked to state their living arrangement before and after the filing of the petition. 62% of the petitioners stated that they were living with one of their sons or daughters at present and 1% of the petitioners are found to be living at old age homes. The living arrangement of the petitioner before filing of the petition was looked into and 67% of the petitioners were found to be living with one of the sons or daughters and 1% living in old age homes. The living arrangement before and after the filing of the petition shows that the percent of petitioners living with either son or daughter decreased after the filing of the petition from 67% to 62% and the petitioners living in old age homes neither decreased nor increased after the filing of the petition. The petitioners were asked if they were satisfied with the current living status and 79% of the petitioners stated that they are satisfied and 21% are not satisfied with the current living arrangement. The petitioners who conveyed dissatisfaction with their current living arrangement constituted 32% of the petitioners. Before filing the petition 28% lived alone and after filing of petition it increased to 32%. In this cases the petitioners had mostly approached the tribunal with property petition and in the due process of the verdict the RDO officer having taken into account the verbal and physical harassment at the hands of the defendants mostly asked the defendants to move out of the petitioners home.

### **Health Profile**

An attempt was made to understand the health profile of the petitioners for which they were asked about the different diseases, functional problems and psychological challenges apart from the hospitalization history of the petitioners in the past six months. 29% of petitioners rated their present health status as average whereas only 4% rated their health status as very good. 75% of the petitioners were not hospitalized in the past 6 months only 25% of the petitioners were hospitalized. Of the 25% that was hospitalized, 49% were hospitalized for up to 10days and 7% were hospitalized for more than a month. The reasons for hospitalization included diseases like cancer, cardiac arrest or heart attacks, diabetes related and surgeries. During hospitalization 69% of the petitioners were taken care of by either son or daughter, 14% by spouse and 3% were taken care of by brother or sister, grandson or granddaughter. As for the expenses during the period of hospitalization, 64% of the expenses were met by either son or daughter and 26% by spouse. The lowest of 1% was met by either grandson or granddaughter.

In order to understand the diseases that are suffered by the petitioners at present they were asked to identify from Diabetes, Hyper tension (BP), Cardiac Problems, Asthma, Arthritis, Rheumatism, combination of diabetes and hypertension and combination of diabetes, hypertension and cardiac problems. As a result majority of 58% suffer from Hypertension (BP), 53% suffer from Arthritis, 50% from diabetes, 36% from a combination of diabetes

and hypertension, 28% from cardiac problems, 26% from asthma, 14% from a combination of diabetes, hypertension and cardiac problems and 13% suffer from rheumatism.

In regard to the functional problems suffered by petitioners, 12 functional areas were identified from which the results in the functional areas of the petitioners are as follows: 15% suffer very much from not getting sleep, 8% intermittent headache, 11% intermittent cough, 18% bowel movements, 8% urinary problems, 19% vision, 14% hearing, 10% remembering things, 11% going to toilet and 9% taking bath, 10% going to bed and getting up and 17% walking outside home.

The psychological challenges faced in terms of lack of confidence to depression of the petitioner was analyzed and the results are as follows. 30% faced lack of self-confidence, 35% had feeling of helplessness, 29% had feeling of worthlessness, 30% had feelings of unwantedness, 29% suffered from depression, 38% suffered from anxiety and 44% suffered from tension. This goes to show the poor family dynamics, lack of familial and social support and the lack of activity or participation in something engaging. The petitioners, as they have aged, had limited opportunities for interactions. The present social structure incapacitates and limits the opportunities and activities within the household, The plight is bleaker for elderly with poor educational qualification. Thus to improve the psychological wellbeing it is essential that the elderly are more integrated into the changing demographic condition of the world.

As part of probing into the medical history of the petitioners their medication pattern was sorted out and majority (61%) have stated that they took medicines regularly for their illness and 20% have stated they do not consume medicine for their illness and 19% have stated that they occasionally consume medicine. For the 20% of petitioners that do not take medication they were asked to state the reason for this, 79% of them did not consume medicines due to the illness not being considered as serious and 21% stated that it was due to lack of money. For the petitioners who do consume medicine on a regular basis information was sought on how much is spent for medicine and who met the expenses for it. The monthly expenses were grouped into three categories of below Rs.500, Rs.500 to 1000 and Above Rs.1000. Majority of the petitioners, that is 39%, stated that their monthly medical expenses is above Rs.1000/- and 37% have stated that the medical expense is between Rs.500 and Rs.1000 and 24% stated that their medical expenses were below Rs.500 per month. As for who met the expenses for the medicines the possible options of self, son/daughter, grandson/daughter, relative, and others were given. Of this, majority (55%) stated that they pay for the medicine by themselves and 37% stated that either son or daughter pays for the medicine. 5% stated others as the option and in such cases the petitioners specified that they received the medicines free of cost, 3% had relatives pay for medicine and 1% has grandson or granddaughter pay for medicine.

## Detailed Analysis

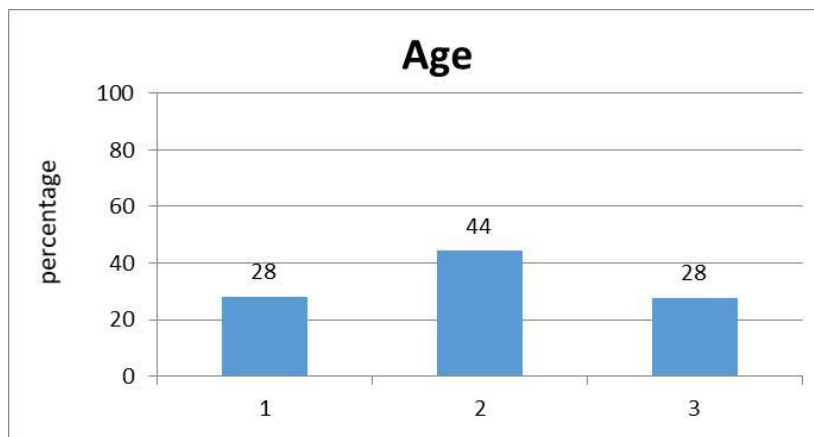
### Sex-wise analysis of petitioners

54 percent of the respondents were female and 46 percent were male. It is evident that females outnumber male respondents. This is a reflection of the population of the elderly where females are more than males.

### Age-wise analysis

The following figure gives the age-wise distribution of our respondents.

Figure 1. Age-wise analysis

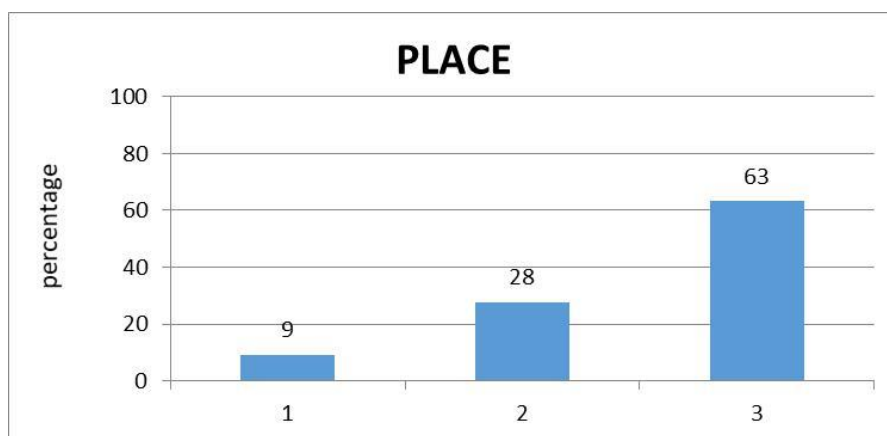


Note: 1 = 60-69, 2 = 70-79, 3 = 80 plus

Figure 1 depicts the age groups of the respondents. The majority (44%) of the respondents falls in the age group between 70-79, while 28 percent of the respondents each belong equally to the 60-69 and 80 plus age group categories.

### Place of residence of the respondents

Figure 2. Place of residence of respondents

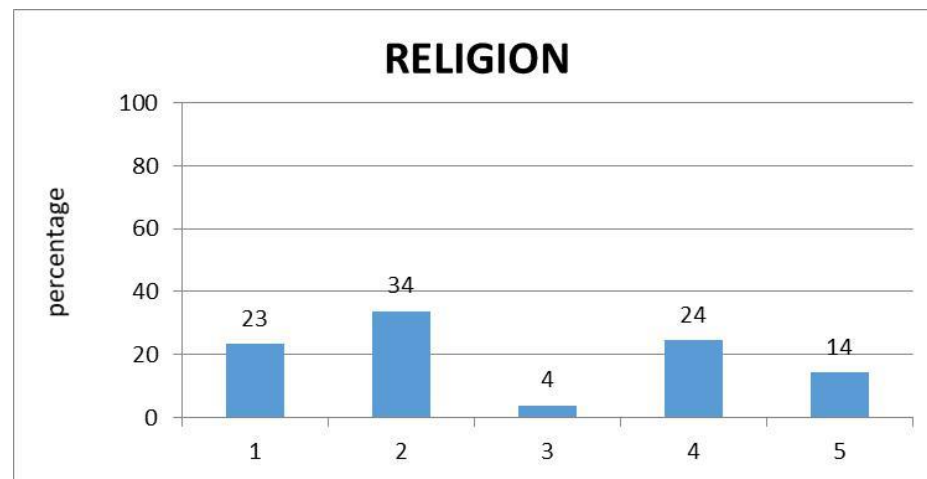


Note: 1 = Urban, 2 = Semi-urban, 3 = Rural

Figure 2 shows that majority of the respondents were living in rural areas (63%), followed by semi-urban (28%) and urban areas (9%)

## Religion of the respondents

Figure 3. Religion

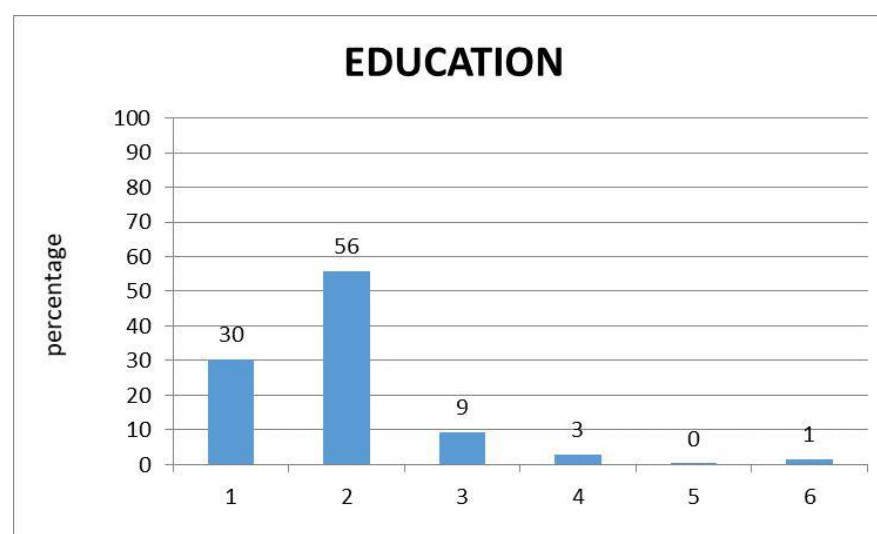


Note: 1 = Hindu Forward, 2 = Hindu Backward, 3 = SC/ST, 4 = Christian, 5 = Muslim

Figure 3 depicts the religion-wise distribution of the respondents. It indicates that majority of the respondents belonged to Hindu Backward (34%) followed by Christian (24%), Hindu Forward (23%) and Muslim (14%). Only 4 percent belonged to the SC/ST category.

## Education of respondents

Figure 4. gives the educational status of the respondent



Note: 1 = Illiterate, 2 = Primary Education, 3 = Secondary Education, 4 = Degree, 5 = PG, 6 = Other

Figure 4 reveals the educational status of the respondents. It shows that 30% percent of the respondents were illiterate. 56% percent have primary education, 9% percent have secondary education, 3% percent have degree qualification. None had a post-graduate degree.

## Marital Status of respondents

Figure 5. Marital status

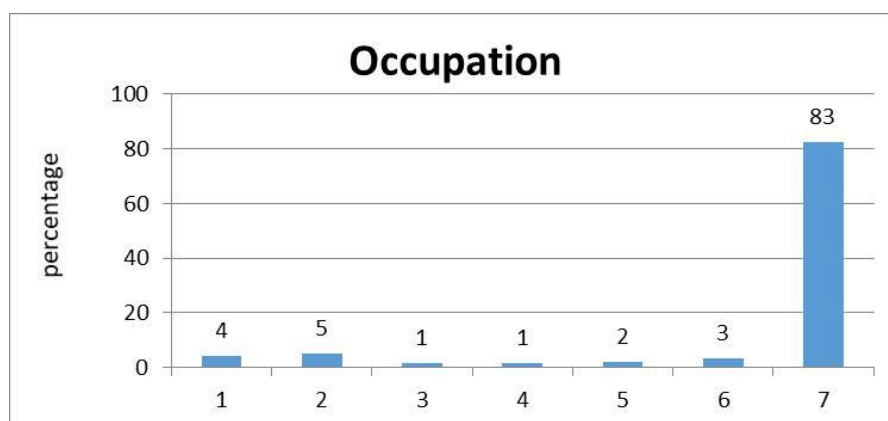


Note: 1 = Married, 2 = Divorced/separated, 3 = Widowed, 4 = Other

Figure 5 depicts the marital status of the respondents. It reveals that 43 percent of the respondents were married and 54 percent were widowed, while 2 percent were divorced/separated and 1 percent belonged to other category.

### Occupational Status

Figure 6. Occupational status



Note: 1 = Farmer, 2 = Labourer, 3 = Business, 4 = Govt. Employee, 5 = Private Employee, 6 = Other, 7 = Not working

Figure 6 is about occupational status of the respondents. It shows that majority of the respondents were not working (83%), whereas very few percent of the respondents are currently working. Among those who were working, Farmers were (4%), Labourers (5%), Business persons (1%), Govt employees (1%), private employees (2%) and Other Occupations (3%).

### Monthly Income

Figure 7. Monthly income

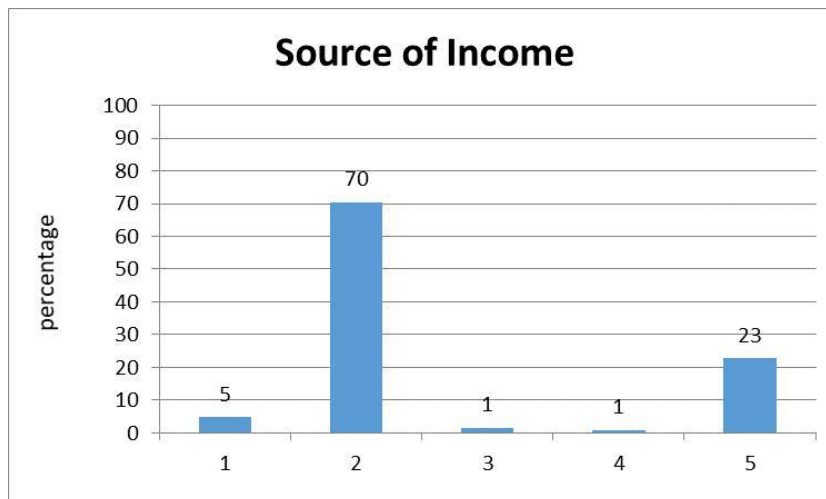


Note: 1 = No income, 2 = Below Rs.1000, 3 = Rs.1000-3000, 4 = Rs.3000-5000, 5 = Above Rs.5000

Figure 7 depicts the monthly income of the respondents. It reveals that majority (47%) of respondents belonged in the Rs.1000-3000 monthly income group, 15 percent belonged to the below Rs.1000 income, 6 percent have between Rs. 3000-5000 as income and 7 percent have income of above Rs.5000. 26 percent of the respondent do not have any income.

### Sources of income

Figure 8. Sources of Income



Note: 1 = Employment, 2 = Service/Old Age Pension, 3 = Property income, 4 = Business income, 5 = No income

Figure 8 reveals the sources of income of our respondents. It shows that majority of the respondents' source of income is service pension/old age pension (70%). 5 percent had employment, 1 percent each had income from property and from business respectively. 23% had no income. The important point to note that only one percent of the respondents have income from property

### Living Arrangements

Figure 9. Living at present





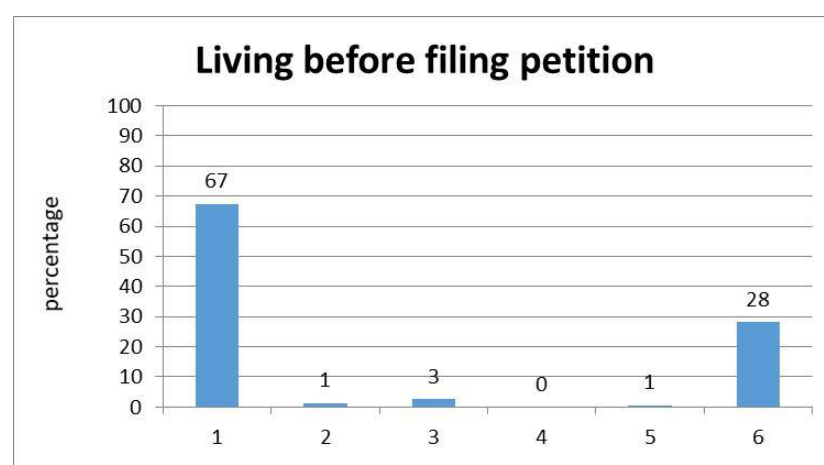
Note: 1 = With son/daughter, 2 = Grand-son/daughter, 3 = Brother/sister, 4 = Friend, 5 = Old age home, 6 = Others

3 = Brother/sister,

Figure 9 depicts the living pattern of the Petitioners at present. It reveals that majority of the respondents presently live with one of their sons/ daughters (62%), followed by those living with others (32%). Very few persons were living with grandson/granddaughter (2%). Those living with a brother/sister were (3%), and in old age homes (1%). Nobody was found to live with friends even though we gave this as a choice.

### Living before filing petition

Figure 10. Living before filing petition



Note: 1 = With son/daughter, 2 = Grand son/daughter, 3 = Brother/sister, 4 = Friend, 5 = Old age home, 6 = Others

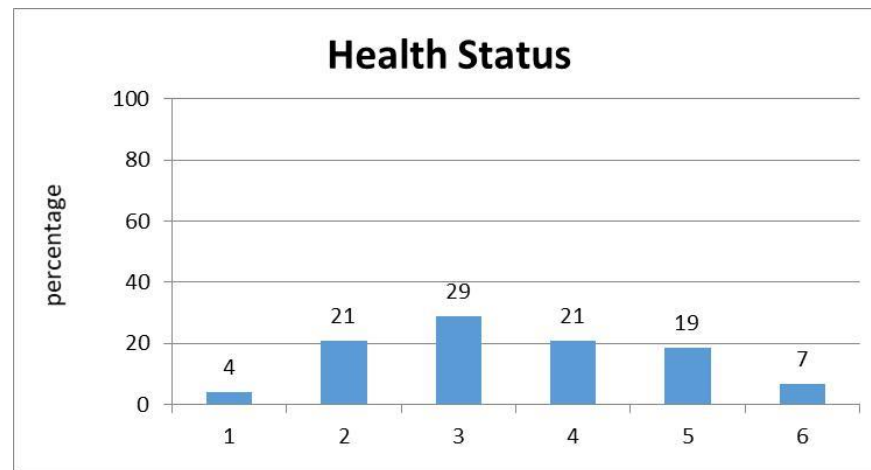
Figure 10 discusses about the living pattern before filing petition. It shows that majority of the respondents, 67%, lived with one of their sons/daughters before filing petition, followed by other 28%. 3% lived with a brother/sister, 1% with a grandson or granddaughter and 1% in an old age home.

### Satisfaction with current living arrangement

As regards the level of satisfaction with current living arrangement, majority (79%) of the respondents were satisfied with their current living arrangement whereas 21 percent of the respondents were not satisfied with their current living arrangement.

### Health Profile

Figure 11. Present health status



Note: 1 = Very good, 2 = Good, 3 = Average, 4 = Below average,  
 5 = Poor, 6 = Very poor

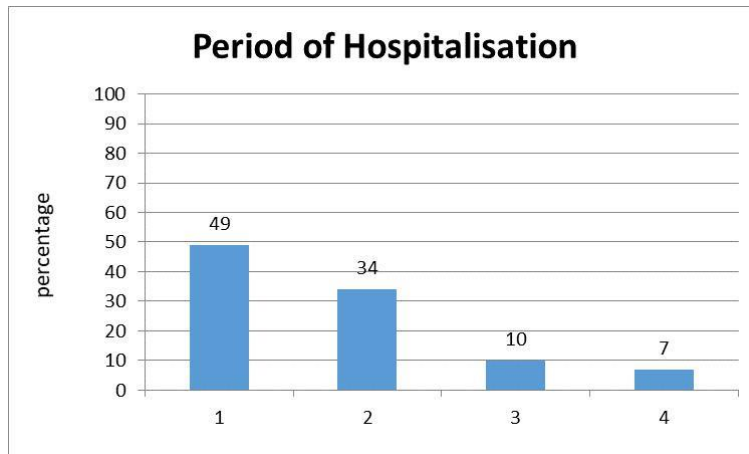
Figure 11 reveals the present health status of the respondents. It shows that the largest number of the respondents opined that their present health status was Average (29%), followed by good (21%), below average (21%), poor (19%) and very poor (7%). Only 4 percent opined that their present health status was very good.

### Hospitalisation history

As regards any illness in the past six months that required hospitalization, majority (75%) of the respondents stated that they did not have any illness that required hospitalization whereas 25 percent of the respondents suffered from illness that required hospitalization in the past six months. Details are given below.

### Duration of the period of hospitalization

Figure 12. Duration of hospitalization

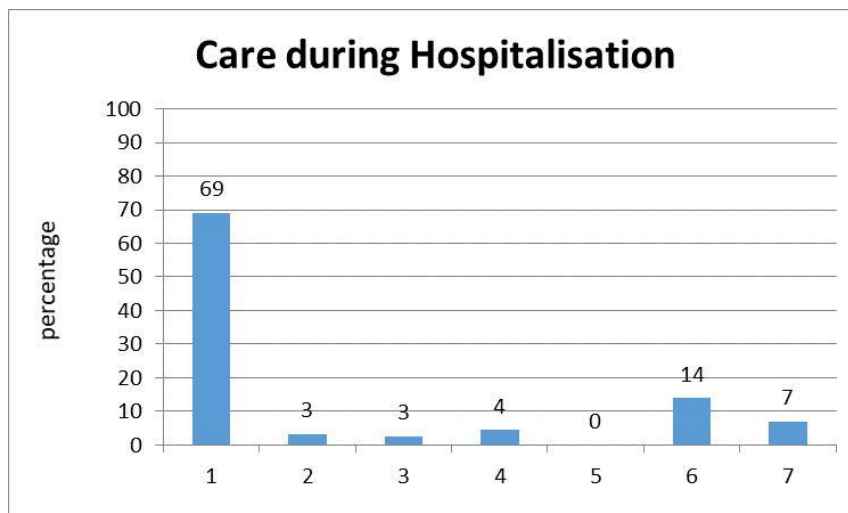


Note: 1 = Upto 10 days, 2 = 11-20 days, 3 = 21-30 days, 4 = More than a month

Figure 12 depicts the duration of the period of hospitalization. It represents respondents who had to be hospitalized in the past 6 months and shows that the largest number of respondents (49%) were hospitalized for a period of up to 10 days, followed by 34% who had to be hospitalized for a period of 11 to 20 days and 10% for 21 to 30 days. 7% stated that they had to be hospitalized for more than a month.

### Care-givers during hospitalization

Figure 13. Who gave care during hospitalization

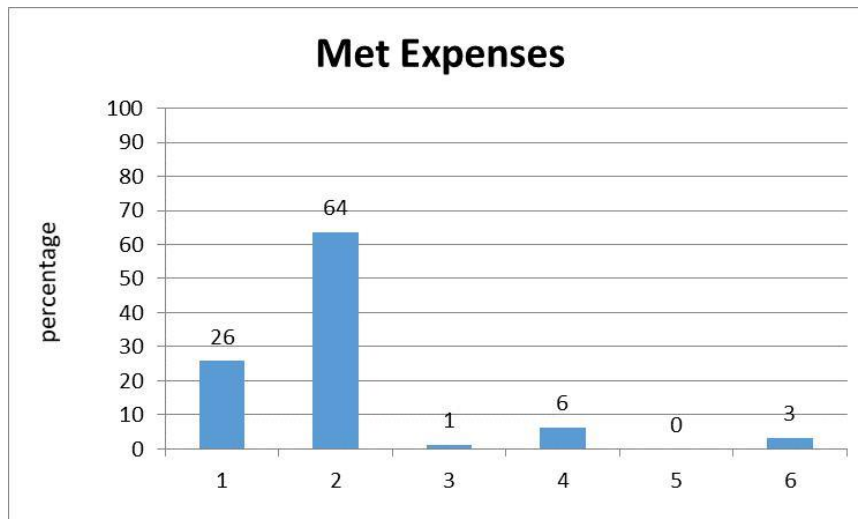


Note: 1 = Son/daughter, 2 = Grandson/grand-daughter, 3 = Brother/sister, 4 = Relative, 5 = Friend, 6 = Spouse, 7 = None

The above figure 13 represents as to who took care of the respondents during hospitalization. Majority of them (69%) stated that they were taken care of by either son or daughter, 14% stated that they were taken care of by spouse, 7% stated that they had no one taking care of them during the period of time they were hospitalized; it was a free hospital.

### Hospitalization expenses

Figure 14. Who met the expenses during hospitalization



Note: 1 = Self/spouse, 2 = Son/daughter, 3 = Grandson/daughter, 4 = Relatives, 5 = Friend, 6 = Free hospital

The petitioners were asked to state who took care of their expenses during the period of hospitalization and they were asked to choose from the following categories: Self/spouse, Son/daughter, grandson/grand-daughter, relative, friend, it was a free hospital. Of this, 64% stated that either son or daughter took care of the expenses, 26% stated that the petitioner or spouse took care of the expenses. 6% stated that a relative met the expenses, 3% stated that it was a free hospital. Only 1% stated that the expenses were met by either grandson or granddaughter. Nobody chose friend as a person who spent his/her expenses during hospitalization.

To understand the health status of the petitioners they were asked various questions regarding the diseases that they suffer from, the problems that they have in regard to the functional areas of their lives, the nature of medication and such others.

## Disease pattern

h Figure 15. Currently suffering from Diseases

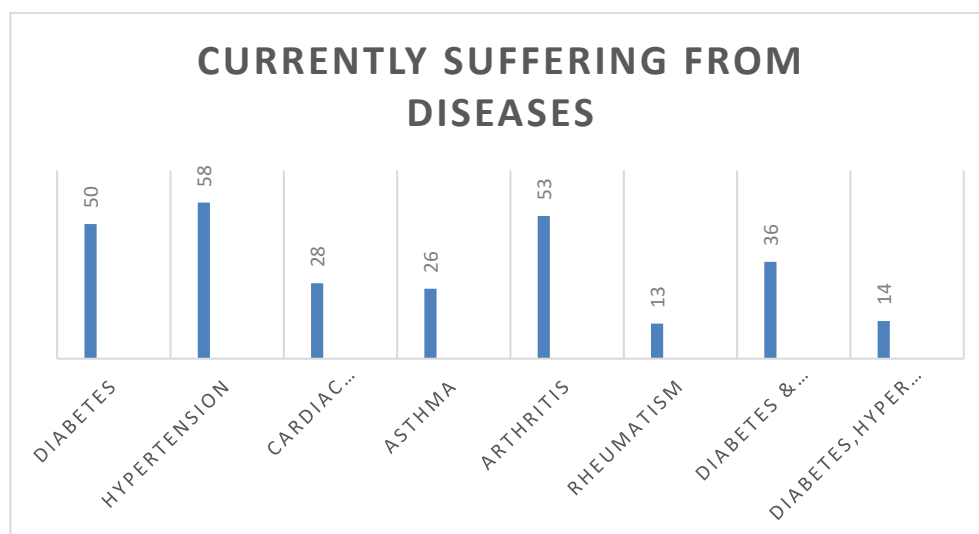


Figure 15 shows the diseases that are suffered by the petitioners at present. The majority of them (58%) suffer from Hypertension (BP), 53% suffer from Arthritis, 50% from diabetes, 36% from a combination of diabetes and hypertension, 28% from cardiac problems, 26% from asthma, 14% from a combination of diabetes, hypertension and cardiac problems and 13% suffer from rheumatism. Hypertension and arthritis seem to be the major single diseases suffered by our respondents. No one seems to be free from any disease.

### Problems in functional areas

Figure 16. Functional Problems

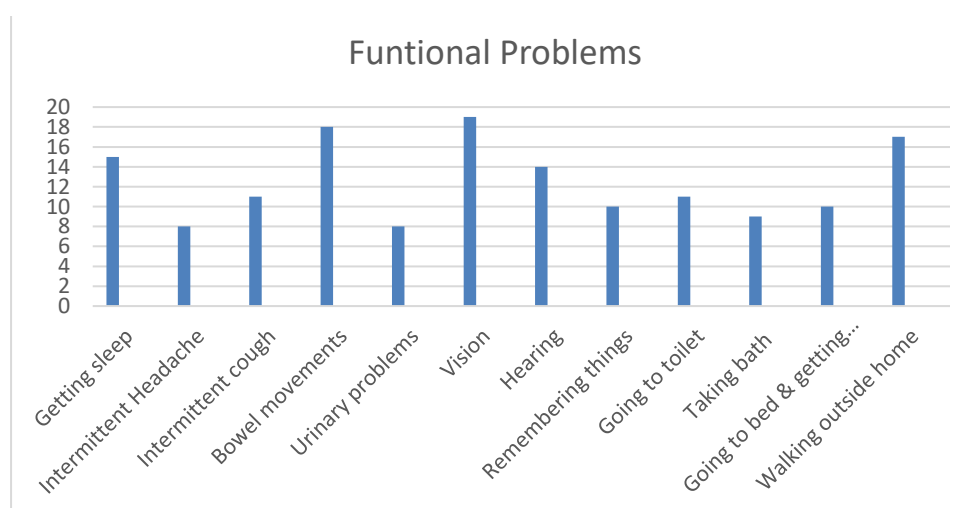


Figure 16 shows the problems in the functional areas of the petitioners. 15% suffer very much from getting sleep, 8% from intermittent headache, 11% from intermittent cough, 18% from

bowel movements, 8% from urinary problems, 19% from lack of vision, 14% from hearing problem, 10% from inability to remember things, 11% from going to toilet and 9% from taking bath, 10% in going to bed and in getting up and 17% walking outside home. Problems in vision, bowel movements, getting sleep and walking outside of the home were the largest problems of our respondents.

### Psychological problems

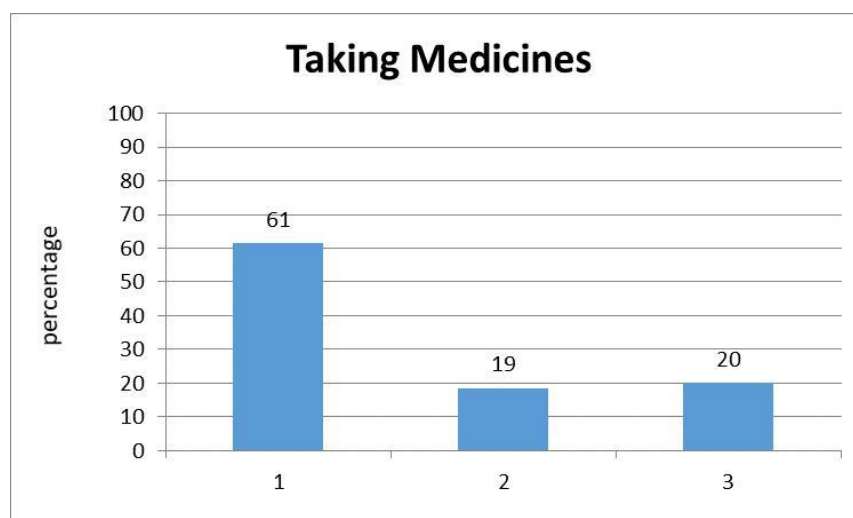
Figure 17. Psychological Challenges



Figure 17 shows the psychological challenges faced by the petitioners. 30% faced lack of self-confidence, 35% had feelings of helplessness, 29% had feeling of worthlessness, 30% had feelings of unwantedness, 29% suffered from depression, 38% suffered from anxiety and 44% suffered from tension. The major problems of the respondents seem to be tension and anxiety.

### Taking medicines for illness

Figure 18. Taking medication for illness



Note: 1 = Take medicines regularly, 2 = Occasionally, 3 = Never

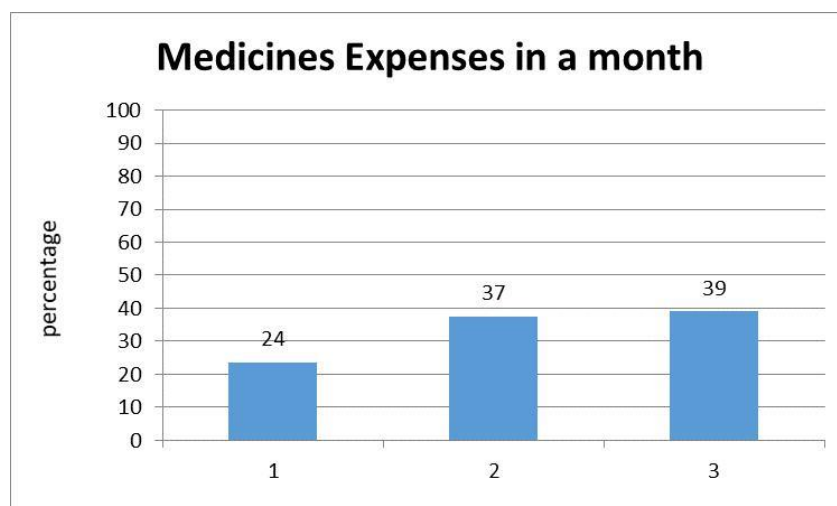
The petitioners were asked if they took medication for the illness that one may suffer from. Majority of them (61%) stated that they took medicines regularly for their illness, 20% stated they do not consume medicine for their illness and 19% stated that they consume medicine occasionally.

### Reason for not taking medicine

As regards the reason for not taking medication, 79% did not take medicines due to the illness not being considered as serious and 21% stated that it was due to lack of money.

### Expenses on medicine

Figure 19. Medical Expenses in a month

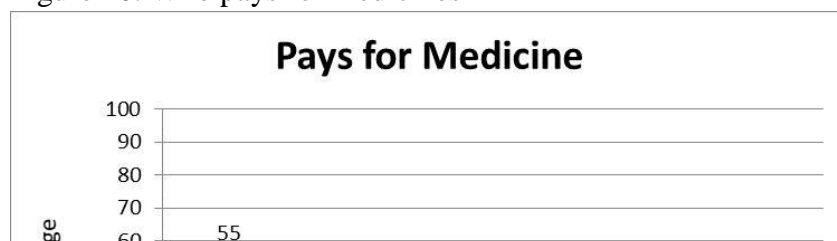


Note: 1 = Below Rs.500, 2 = Rs.500-1000, 3 = Above Rs.1000

Figure 19 depicts the monthly medical expenses of the petitioner. The expenses were grouped into three categories of below Rs.500, Rs.500 to Rs.1000 and above Rs1000. The largest number of petitioners (39%), stated that their monthly medical expenses come to above Rs.1000. 37% have stated that their medical expense are between Rs. 500 – and Rs. 1000 and 24% stated that their medical expenses are below Rs.500 per month. It seems that the largest number of our respondents spend rather heavily on medication every month.

### Who makes the payment for medicines

Figure 20. Who pays for medicines



Note: 1 = Self/spouse, 2 = Son/daughter, 3 = Grandson/daughter, 4 = Relatives, 5 = Others

In Figure 20, the petitioners were asked to mention as to who pays for the medicines for which the possible options of self/spouse, son/daughter, grandson/daughter, relative, and others were given. Of these, majority of the respondents (55%) stated that they pay for the medicine themselves and 37% stated that either son or daughter pays for the medicine. 5% stated others as the option; in such cases the petitioners specified that they received the medicines free of cost, 3% had relatives pay for medicine and 1% has grandson or granddaughter pay for medicine.

It may be pointed out that expenses on medicines are of a regular nature in the sense that they are to be met every month (unlike hospital payments shown earlier). The fact that in 45% of the cases, these expenses are being met by others shows that in care giving, this will be a major item. This could be a major reason for the respondent becoming unwelcome to the care giving son/daughter. If we take this aspect of the estrangement between the petitioner and the defendant, we could also add that the chronic illnesses suffered by some of the petitioners (described in an earlier section in this Chapter) will also add to his/her unacceptability because it will add a major dimension to the care-giving problem.

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## **Chapter 4**

# **Property Relationship of Petitioner**



## Property Relationship

This chapter looks into the property relationship of the petitioner. Since property is the bone of contention in most family disputes and since it is also a major sensitive and ticklish issue in family interpersonal relationships, we thought of examining this issue in detail from the point of view of its relationship to the petitioner and the stake-holding parties. The income of the petitioners as well as the source of this income also have been examined.

The study found that 72% of the petitioners have stated that they had owned property. Majority of the petitioners owned a house and the land that it occupied. On an average, a petitioner has claimed to have owned from 3 cents to 5 Acres of land and property. Of this, 44% stated that they have transferred the entire property to their children, 28% stated that they are managing it by themselves and 27% stated that they have given most of it to the children but have kept a part of it for themselves. In the process of data collection it was found that even though some petitioners have not transferred their property to children or kin, some defendants have just taken possession of the property without it being legally transferred and thus denying the petitioner any access and benefits of the property. Such cases came upto 1%.

Of those petitioners who have parted with their property, 78% stated that they gave the property willingly and 22% stated that they transferred the property to the children due to the compulsion from them. For the 22% of petitioners who transferred property out of compulsion they were asked to state the kind of compulsion that they faced. 41% of these petitioners stated that they faced a combination of coercion, threat and physical assault at the hands of children or kin. 34% stated that they faced coercion from the children and 18% and 7% of petitioners respectively stated that they faced threat and physical assaults at the hands of the children and or kin.

The petitioners were asked if there was any condition to the transfer of property. Only 13% petitioners stated that they had a written agreement with the transferee to ensure that the petitioner should be taken care of. 36% of petitioners stated that they had an oral understanding with the defendant about care. Majority (51%) stated that there was no such condition. In this position, the petitioners felt in good faith that they will be taken care of by the children. They now say that they did not expect things to become so difficult after the transfer of property. Once the transfer of the property took place, the attitude of the defendant completely changed and the petitioners felt that they were disregarded by the defendant, and worse, harassed to the point that they were pushed to stay in the outer shed of the house without proper shelter, food and clothing.

The petitioners were asked to state whether they were staying with kin and if so, had they transferred the property to that kin. The assumption was that since the petitioner was staying

with kin, he/she would readily transfer the property as the kin is taking care of him/her in any case. 51% of the petitioners stated that they voluntarily transferred the property to the kin that they were staying with last and 36% stated that they have not yet transferred the property to the kin. 13% transferred the property out of compulsion.

The following figures and graphs give in detail, selected aspects of the property relationship and other socio-economic factors.

### **Own or owned property**

The petitioners were asked whether they owned any property in the past or at present. Majority of them (71.8%) stated that they did own some property and 28.2% stated that they did not own any property.

### **Present income**

The petitioners were asked about their present income. Table 1 gives the results.

**Table 1. Present income**

<b>Monthly income</b>	<b>Percentage</b>
No Income	21.1%
Below1000	17.5%
1000-3000	47.9%
3000-5000	6.2%
Above 5000	7.3%
Total	100.0%

Table 1 indicates that 21.1% did not have any monthly income, while 47.9% had monthly income between Rs.1000 to 3000, 6.2% had monthly income of Rs.3000 to 5000 and 7.3% had monthly income above Rs.5000/.

### **Source of income**

Asked about the source of this income, the following pattern of responses was found.

**Table 2. Source of income**

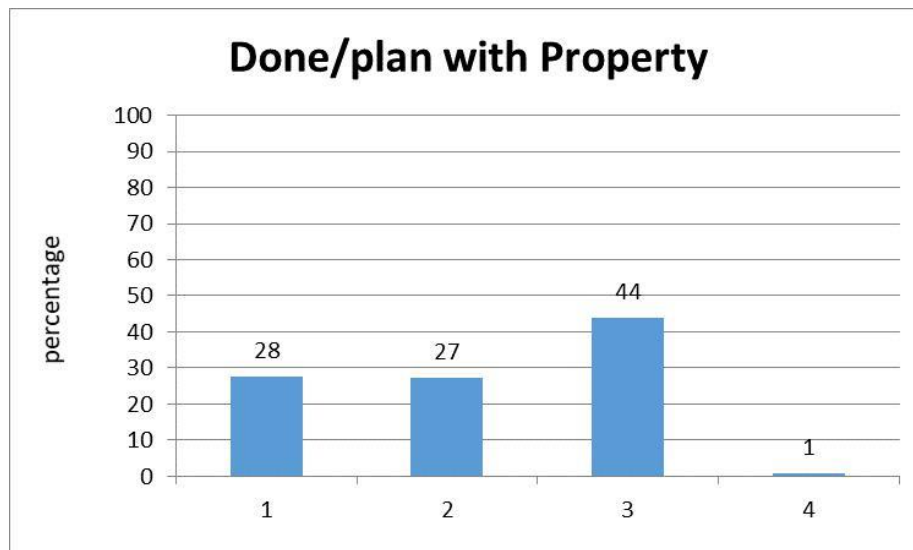
<b>Source of Income</b>	<b>Percentage</b>
Employment	4.0%
Service Pension/Old Age Pension	74.1%

From property	11.6%
From business	1.1%
Others	9.2%
<b>Total</b>	<b>100.0%</b>

Table 2 shows that only 11.6% respondents has income from property. The monthly income for majority of the petitioners (74.1%) is from pension mostly from the old age pension scheme. Income from business was quite small. Miscellaneous other sources accounted for income for 9.2% of the petitioners. The fact that most of the 74.1% of the petitioners were living on pension under the old age pension scheme, which is for below poverty line individuals, shows that these respondents had very little income.

### Status of property

**Figure 1. Status of property**



Note: 1 = Keeping byself, 2 = Gave most of property to children, 3 = Gave enti property, 4 = Ownership by petitioner but possession by defendant.

Figure 1 shows status of property previously or presently owned by the respondents. The petitioners were asked to state what they had done with their property. This was inorder to find out if they still owned the property or if they had transferred it. The plan with property was categorized into four as (1).Keeping it myself, (2). Have given most of it to children and keeping a part of it for myself, (3). Given the entire property to children, and (4) property still owned by petitioner but has been taken possession by defendant. 44% of the respondents stated that they have given the entire property to their children and 28% have stated that they are managing it on their own, 27% have stated they have given most of it to their children but are keeping a part of it for themselves, lastly 1% of the petitioners stated that they had not transferred the property to children or kin but it had been taken possession of by the defendant by force.

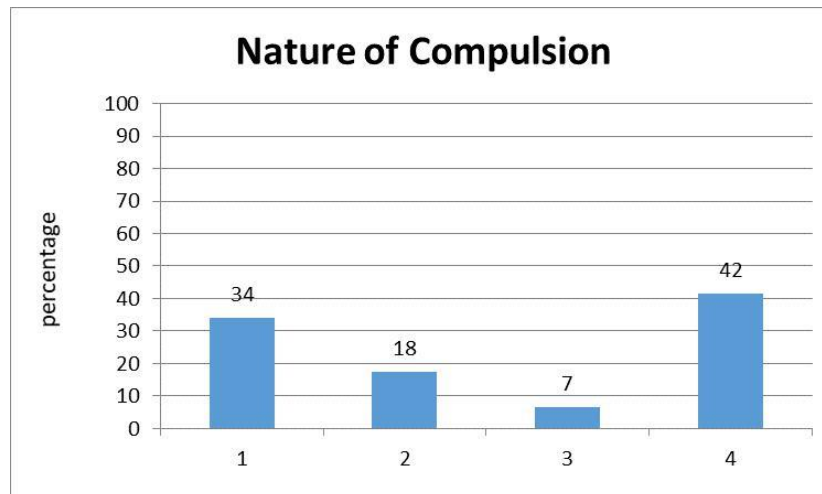
### Ground for property transfer

The petitioners who had transferred property to children were asked if they had transferred the property willingly or out of compulsion. Majority of the respondents (78%) had transferred the property to their children or kin willingly and 22% stated that they transferred the property out of compulsion from children.

### Nature of compulsion

Figure 2 gives the nature of compulsion under which the property was transferred

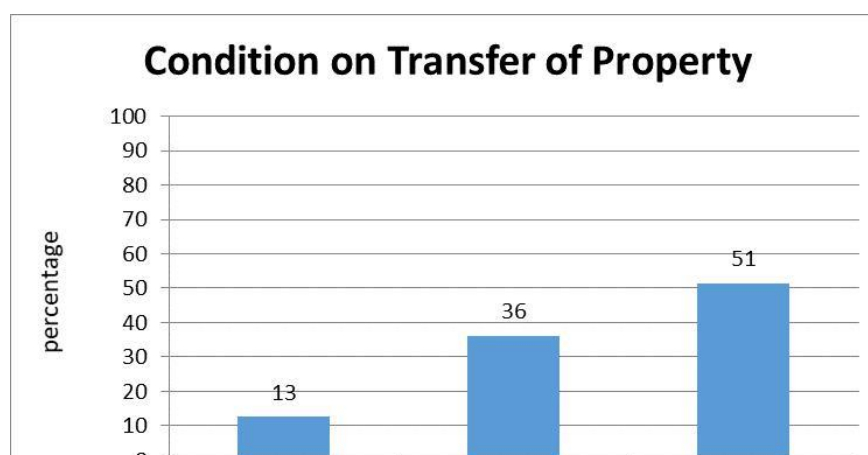
**Figure 2 Nature of compulsion for property transfer**



Note: 1 = Coercion, 2 = Threat, 3 = Physical assault, 4 = Combination of all three

Figure 2 depicts the nature of compulsion that resulted in the transfer of property. Four categories were identified and they are coercion, threat, physical assault and other. 34% stated that they were coerced into transferring the property, 18% stated threat as the nature of compulsion and 7% stated physical assault. However the majority of them (42%) stated others as the reason and these included a combination of factors including the items identified.

**Figure 3. Condition for property transfer**



Note: 1 = Written consent, 2 = Oral understanding, 3 = No condition

In figure 3 the petitioners were asked to state if there was any condition to the property transfer in terms of looking after of the petitioner. There were three categories 1. Yes there was a written agreement in the contract, 2. Yes there was an oral understanding in this regard and 3. No there was no condition. Majority (51%) have stated that there was no condition, 36% stated there was an oral understanding in this regard and 13% stated there was a written agreement in the contract. It seems that the petitioners assumed that the beneficiaries will be amenable to the prevailing value system whereby the son/daughter will look after the parent, especially when gaining material benefit from him/her

**Table 2: Education and Condition of property transfer**

We assumed that education will have some influence on the Petitioner in putting or not putting a condition on property transfer. Table 2 gives the results of this enquiry.

Education	Condition of property transfer			Total
	Yes, there was a written agreement in the contract	Yes, there was an oral understanding in this regard	No, there was no condition	
Illiterate	12.3%	44.2%	43.5%	100.0%
Primary	12.7%	32.8%	54.1%	100.0%
Secondary	9.8%	29.3%	61.0%	100.0%
Degree	25.0%	33.3%	33.3%	100.0%
Others		20.0%	80.0%	100.0%

Table 4 shows that degree holding petitioners were the largest number in written agreement as well as oral understanding to ensure being looked after by the beneficiary while transferring property. It seems that they appreciated more the changing value system and increasing self-orientation of the present generation and hence insisted on a contract, at least verbal, in return for the property transfer. Petitioners with primary level education followed by illiterate petitioners were the next group in ensuring some form of guarantee in return for the deal. Secondary educated were the largest in not ensuring a *quid pro quo* because they went after the middle class value system of respecting existing values and customs.

### **Marital status and condition of property transfer**

It was thought that marital status and property transfer could be related. Table5 gives this relationship.

**Table 3: Marital Status and Condition of property transfer**

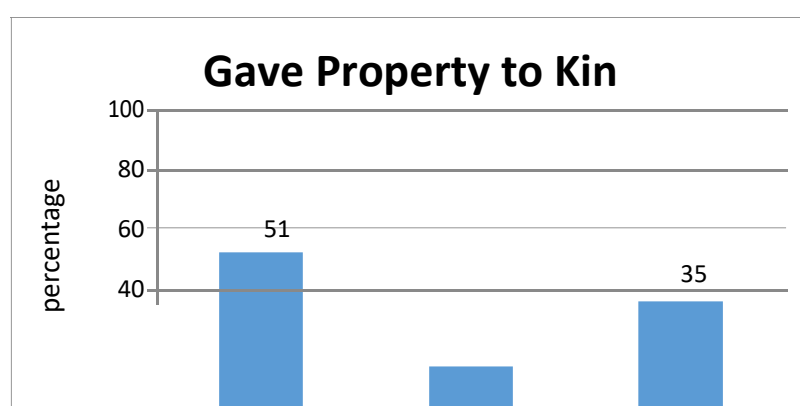
Education	Condition of property transfer			Total
	Yes, there was a written agreement in the contract	Yes, there was an oral understanding in this regard	No, there was no condition	
Married	36.5%	34.6%	28.9%	<b>100.0%</b>
Divorced/Separated	14.3%	34.6%	51.1%	<b>100.0%</b>
Widowed	10.3%	37.7%	52.0%	<b>100.0%</b>
Other	16.7%	33.3%	50.0%	<b>100.0%</b>

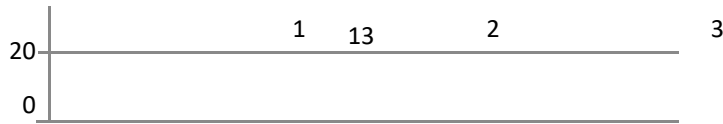
We thought that marital status will have some bearing on the condition of property transfer but found that when it comes to absence of a condition, all categories of respondents stand on the same plane except the married ones. In the case of the married respondents, while there was uniformity of agreement with the other groups on understanding on the issue, there were variations on other choices. The caution seems to be due to the fact that the respondent had to take care of the spouse and make sure that the partner will have to be provided for on his/her demise. Table 3 shows that the married are more probable to insist on both written and verbal conditions regarding maintenance, In their case the insistence – written or oral - comes to 71.1% which surpasses all others by a wide margin. In showing the lowest margin (28.9%) to “no condition” this group wanted to avoid risk as much as possible.

### Giving property

Figure 4 shows the mode of transfer of property to kin.

**Figure 4. Give away property to kin**





Note: 1 = Gave voluntarily, 2 = Gave by compulsion, 3 = Not given property yet

In figure 4, 51% of the petitioners stated that they gave away the property to the kin they are staying with voluntarily, 35% have not yet given away the property and 13% gave it out of compulsion.

### **Sexual difference in property transfer.**

We next wanted to know if there is any difference in giving away of property to the kin.

We assumed that women will be more considerate in this than men.

**Table 4: Sex and Gave Property to Kin**

Gave Property to Kin				
Sex	Voluntarily	Out of Compulsion	Not Yet	Total
Male	55.7%	8.8%	35.5%	<b>100.0%</b>
Female	47.6%	17.7%	34.6%	<b>100.0%</b>

Table 4 shows female petitioners (17.7%) were more than male petitioners (8.8%) to give property to kin out of compulsion. This seems to be due to the fact of women being weaker when it comes to pressure. However, on voluntary transfer, women are less in number than men, which seems to be due to the fact that on parting with permanent assets, women are more cautious.

### **Conclusion**

In conclusion, from the findings of this Chapter, the following observations may be made. 72% of the petitioners had owned property of which 28% are still keeping the property either in part or in full. The rest had given away their property to children mostly voluntarily but also out of coercion. Sex, education, and marital status were influential in the transfer or absence of transfer of property.

As regards income of the petitioner, 21% did not have any income. The main source of income for the vast majority of respondents was from pension, especially from old age pension (74.1%). Number of persons who received income from property was small (only 11.6%) and only 13.5% of the petitioners had income above Rs.5000/ per month.

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## **Chapter 5**

# **The Petitioner at the Tribunal**

In this chapter the petitioners' reasons for approaching the tribunal, the nature of the complaint, how the petitioners found the process of filing the petition and the process of it are described. The petitioners were asked to explain the issues that they faced at the hands of the



defendants. 58% petitioners faced financial neglect, 52% faced overall neglect and verbal abuse, 51% faced emotional abuse or insult. 35% of the petitioners faced forcible extraction of money, inflicting physical pain, denial of personal needs including clean clothing, isolating from family members and friends, denial of health care requirements, not serving food at proper times and abandonment were also experienced by the petitioners. The petitioners' explanation for the reason for this kind of treatment is that their children find them a burden once they transfer the property to the children's names. Once the transfer of property is effected, the petitioner becomes poor and maintaining him will be no longer considered an obligation by the beneficiaries. In some case's petitioners have stated that their deteriorating health condition also motivates the defendants to act in such deviant ways towards them.

Under the MWPSA a petitioner can file a petition for either getting maintenance from children or kin or for re-possession of property. In this study it was found that 54% of the petitioners had filed maintenance petitions whereas 38% filed property petitions. 8% of petitioners stated that they filed petition for both maintenance and re-possession of property. In some of the maintenance petitions the petitioners had filed requests to get relief from the physical and verbal abuse that they face at the hands of their children. In such situations the defendants were asked by the Tribunal to move out of the house of the petitioner and they were warned against causing any further problems for the petitioners. In rare instances where the petitioners filed for both maintenance and property petitions it was found that most of them own or have owned property which might have been forcibly taken away from them by the defendant and thus denying their source of income. In such cases the petitioners hope that the tribunal's intervention can either get them the required maintenance or property back.

In terms of the perpetrator in petitions, in 68% cases it was one of the children and in 23% cases it was all the children. Relatives and grandchildren come to only 7% and 2% respectively. 22% of the children were abusive towards the petitioner and in most cases it was the child that the petitioner was staying with. 34% faced abuse due to their economic dependence on the defendant, 32% faced abuse due to property issue, 7% due to health problems and 26% faced abuse due to other reasons. Mostly petitioners were facing abuse for a combination of reasons such as health problem and their economic dependence and or this combined with property issues. In a rare case a female petitioner stated that she was abused by her younger son and daughter-in-law, the daughter-in-law was the wife of her elder son and this petitioner had found out the illicit relationship between them and as a result both of them resorted to physical violence to the extent that the petitioner had broken bones.

We enquired whether the petitioners had resorted to approaching the tribunal as a last resort. It was found that 27% of the petitioners tried other means to resolve the issue that they faced with the defendant; on the contrary 73% of the petitioners did not try for any other means to resolve the issue with the defendant, rather they approached the tribunal first hand.

To find out the awareness and knowledge about the MWPSA the petitioners were asked to state how they came to know about the Act. 47% of the petitioners stated that they came to know of the Act from Police Officers, lawyers and neighbors. Of this, majority of the petitioners stated lawyers as their source. Even though the Act doesn't allow for the participation of lawyers in the process of hearing by the Tribunal, some of the petitioners did approach lawyers to have their petitions prepared beforehand; for this the petitioners had to pay the lawyers hefty amounts ranging from Rs.5000 to Rs.20, 000. Many of the petitioners do not have this money to pay the lawyers; some borrowed the amounts to pay the lawyer who prepared the petition demanding maintenance for the petitioner. 13% of the petitioners got the information from Newspapers, 1% from TV and Radio about the Act. This shows the lack of publicity for the Act; It also highlights the need for more wide spread advertisement for the Act. 31% of petitioners did not approach anyone with regard to preparing for the application, 29% of petitioners approached others for help; most of these others were identified as lawyers. The petitioners were asked to state the reason that prompted them to approach the tribunal. 46% stated denial of financial assistance, 45% neglect, 43% mental abuse, 37% frequent harassment for property, 22% repeated physical abuse and 18% abandonment. Some petitioners gave more than one reason and so the total is more than 100. 96% of the petitioners stated that they had no difficulty in filing the petition. 80% of the petitioners stated that they faced no opposition in filing the petition. 84% of the petitioners found the officials very cordial throughout in helping the petitioner and only 1% of petitioners found the official's hostile. The counseling process was much appreciated by the petitioners as they found solace in the fact that they were heard and talked to. The petitioners appreciated the fact that the counselors were able to mediate and help initiate conciliation process between the petitioner and the defendant. 57% of the petitioners went for counseling, 56% found the defendants' attitude to be favorable during the counseling session and for 63% of the petitioners the petition was settled through the counseling session.

The petitioner's means of transportation to the tribunals' office was assessed. 68% of the petitioners travelled by bus and 21% travelled by auto rickshaw, 10% by other paid means which were friend's car and shared taxi. 1% of the petitioner walked to the tribunal's office. 11% of the petitioners had to travel only once, 38% had to travel more than three times. In their travel 55% of the petitioners could manage by themselves to the tribunal's office and 45% of the petitioners needed a helper. In regard to a question on whether the Tribunal's office should be closer to home, 30% of the petitioner would prefer to have the tribunal's office closer to home, 70% of the petitioners had no opinion in the matter. A petition once filed is required to be settled within 90 days of filing. 70% of the petitioners stated that they had no opinion in the matter of the time limit. In this regard the petitioners were asked to state the time that it took for them from the time of filing of petition to the time of the verdict. For 59% of the petitioners

their petitions were settled within 3 months or less and for 41% of the petitioners it took more than 3 months. In some exceptional cases it took over 1 year. As for the cause for delay, 66% found delay from the defendants' side to be the reason and 19% found indifference from the officials' side to be the reason. 15% stated other reasons. Under this, the petitioners mostly stated absence of the Revenue Divisional Officer and transfer of the RDOs.

In regard to making payment to anybody in filing of the application or in the process of the hearing 5% of the petitioners stated that they made payments to lawyers for the preparation of the petition. In this regard, as stated earlier, the petitioners have made payments from Rs.5,000 to Rs.20,000 to lawyers for the preparation of the petition. The following figures and tables will look into the above facts.

### **Problems faced in filing the petition**

The petitioners were asked to state the difficulties and problems if any that they faced at the hands of the defendants. Details are shown in Figure No. 1.

**Figure 1. Problems faced by the petitioner from defendant or children**

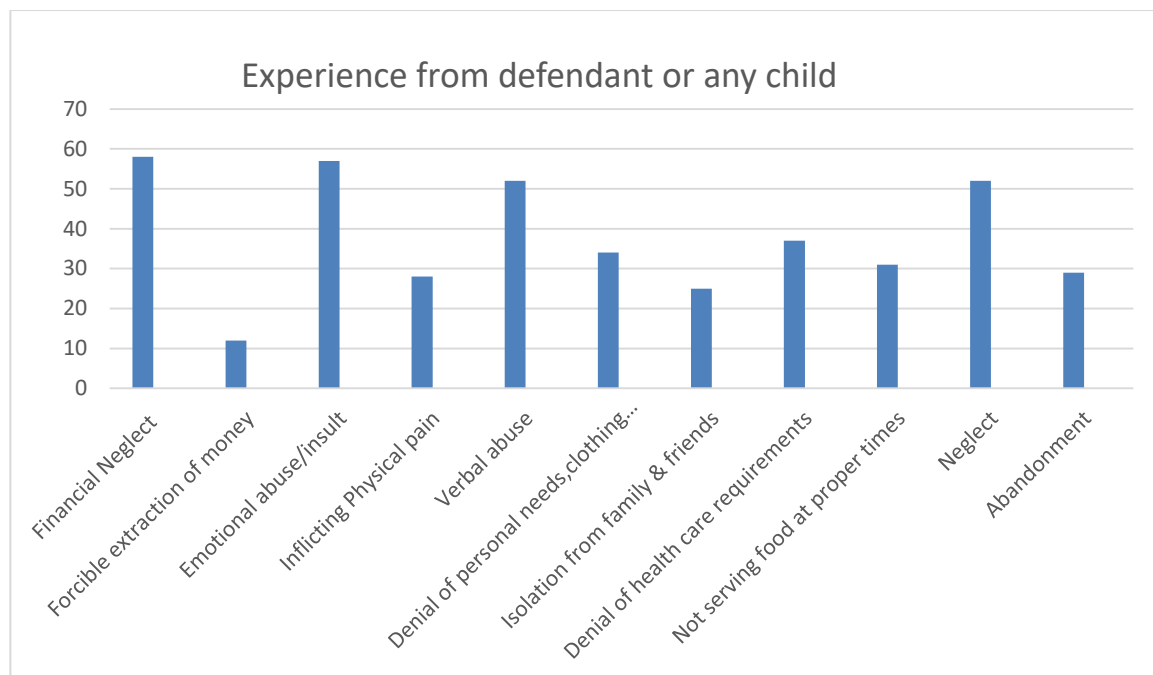


Figure 1 shows the experience the petitioners had at the hands of the defendants. Financial neglect (58%) is what most petitioners have faced at the hands of the defendants. The other experiences were 52% neglect, 52% verbal abuse and rude talk, 53% emotional abuse or insult, 37% denial of health care requirements, 34% denial of personal needs and clothing, 31% not serving food at proper times, 29% abandonment, 28% inflicting physical pain, and 25% isolation from family and friends. 12% faced forcible extraction of money.

### **Factors behind the petitioners' problems**

Since the whole problem of the petitioner revolves around mistreatment ((abuse) of the petitioner, we examined this aspect of the problem. We analyzed the abuses from the point of view of certain variables which are usually associated with these kinds of situations.

We first examined the problem from the point of view of financial background of the petitioner. This is because we found that money was a critical issue in the treatment of the petitioner. First we wanted to know if there is any relationship between abuse and occupation of the petitioner. Table 1 gives the results.

### **Occupation and financial abuse**

We wanted to know if there is any relationship between occupation of the petitioner and financial neglect suffered by him. The assumption was that if the petitioner had an occupation that brought good income, financial neglect will be less or it will not be felt much by the petitioner because it will be offset by better income.

Another related area of our enquiry was the relationship between monthly income of the petitioner and financial neglect suffered by them. Actually, occupation and nature of income go together. The assumption is that neglect will be often due to lack of sufficient income on the part of the petitioner. The result of this enquiry is shown in Table 1

**Table 1. Monthly Income and financial neglect**

Monthly Income	Faced financial neglect		Total
	Yes	No	
No Income	73.8%	26.2%	<b>100.0%</b>
Below 1000	54.8%	45.2%	<b>100.0%</b>
1000-3000	55.4%	44.2%	<b>100.0%</b>
3000-5000	47.2%	52.8%	<b>100.0%</b>
Above 5000	34.9%	65.1%	<b>100.0%</b>

Table 1 shows that petitioners with no income were most likely to face financial neglect (73.8%) and petitioners with monthly income above Rs.5000/- (34.9%) were least likely to face financial neglect from defendant or any of their children. This implies that those with good income were least affected by neglect by children. This table and the previous table are mutually supporting and as such are closely related.

### **Sex and financial neglect**

A further area for financial neglect is sex. Often neglect will be more on women than men because men are likely to fight back if they get an opportunity. The results are given in Table 2.

**Table 2: Sex and financial neglect**

Sex	Financial neglect		Total
	Yes	No	
Male	23.6%	76.4%	<b>100.0%</b>
Female	31.4%	68.6%	<b>100.0%</b>

Table 3 shows that female petitioners (31.1%) were likely to experience financial neglect from defendants in comparison to their male counterparts (23.3%).

### Verbal abuse

Another area of elder mistreatment is verbal abuse. This variable was examined against the monthly income of the petitioner.

**Table 3: Monthly income and verbal abuse**

Monthly Income	Verbal abuse		Total
	Yes	No	
No Income	54.9%	45.1%	100.0%
Below1000	46.1%	53.9%	100.0%
1000-3000	35.6%	64.4%	100.0%
3000-5000	27.8%	72.2%	100.0%
Above 5000	18.6%	81.4%	100.0%

It will be found from Table 3 that there is strong relationship between income and abuse. The higher the income, the lesser is the abuse and vice versa. Thus those with income above Rs.5000 per month got less abuse (18.6%) than those whose income was nil (54.9%)

### Denial of personal needs

We examined another area of abuse of the petitioner by the kin. This is the area of satisfaction of personal needs. It is very important to everybody that his/her personal needs are met adequately. In the case of an old person, assistance is required in this, especially if he/she is partially or fully dependent on the care giver

### Monthly income and denial of personal needs.

The same issue was contrasted against income. Table 4 gives details.

**Table 4: Monthly income and denial of personal needs**

Monthly Income	Denial of personal needs		Total
	Yes	No	
No Income	54.9%	45.1%	100.0%
Below1000	46.1%	53.9%	100.0%
1000-3000	35.6%	64.4%	100.0%
3000-5000	27.8%	72.2%	100.0%

Above 5000	18.6%	81.4%	<b>100.0%</b>

Table 4 shows that petitioners with no monthly income (54.9%) were most likely to experience denial of personal needs and petitioners with monthly income above Rs.5000/-(18.6%) were least likely to experience denial of personal needs from defendants or any of the children.

### **Income and isolation**

The same issue is examined in relation to income in Table 5

**Table 5: Monthly Income and Isolation from family members**

Monthly Income	Isolation from family members		Total
	Yes	No	
No Income	42.1%	57.9%	<b>100.0%</b>
Below1000	24.0%	76.0%	<b>100.0%</b>
1000-3000	25.4%	74.6%	<b>100.0%</b>
3000-5000	22.8%	77.2%	<b>100.0%</b>
Above 5000	18.9%	81.1%	<b>100.0%</b>

Table 5 shows that petitioners with no monthly income (42.1%) are more likely to experience isolation from family members. Petitioners with monthly income above Rs.5000/- (18.9%) are least likely to experience isolation from family members. The table shows a direct relationship between income and isolation from family members.

**Table 6: Monthly Income and Denial of health care requirements**

Monthly Income	Denial of health care requirements		Total
	Yes	No	
No Income	59.1%	40.9%	<b>100.0%</b>
Below1000	30.1%	69.9%	<b>100.0%</b>
1000-3000	29.3%	70.7%	<b>100.0%</b>
3000-5000	27.8%	72.2%	<b>100.0%</b>
Above 5000	21.9%	78.1%	<b>100.0%</b>

Table 6 shows that petitioners with no income (59.1%) are most likely to experience denial of healthcare requirements whereas petitioners with monthly income above Rs.5000/- (21.9%)

were least likely to experience denial of healthcare requirements by defendant or children. In fact, the table shows a direct relationship between income and provision/denial of health care requirements by the defendant or family

### **Serving food**

Serving food at proper times and in adequate quantity and quality to the old, is an important factoring the quality of life of the elderly? Hence, we made an enquiry into this aspect of the food issue. We examined this issue against the income of the potential beneficiaries (our petitioners) the results of this enquiry are given in Table 7.

**Table 7: Monthly Income and not serving food at proper time**

Monthly Income	Not serving food at proper time		Total
	Yes	No	
No Income	48.2%	51.8%	<b>100.0%</b>
Below1000	25.8%	74.2%	<b>100.0%</b>
1000-3000	25.2%	74.5%	<b>100.0%</b>
3000-5000	22.2%	77.8%	<b>100.0%</b>
Above 5000 s	6.3%	93.7%	<b>100.0%</b>

Table 7 shows that petitioners with no income (48.2%) were most likely to experience food not being served at proper time whereas petitioners with monthly income above Rs.5000/- were least likely (6.3%) to experience food not being served at proper time by defendant or by any of the children. Here again the influence of income as factors in treatment of the elderly has been brought out.

### **Neglect and abandonment**

Neglect and abandonment are two important problems usually faced by all the elderly. Studies have found that these are related to health of the victim. In order to find out the extent of damage that health could bring to this aspect of the petitioner's life, we asked a question to them about it. We got the following answers (please see table 12)

### **Health status and neglect**

**Table 8. Health status and neglect/abandonment**



Health status	Neglect/abandonment		Total
	Yes	No	
Very good	12.8%	87.2%	<b>100.0%</b>
Good	24.3%	75.5%	<b>100.0%</b>
Average	28.6%	71.4%	<b>100.0%</b>
Poor	47.2%	52.8%	<b>100.0%</b>
Very poor	56.7%	43.3%	<b>100.0%</b>

Table 8 shows that petitioners in very good health were subjected to least neglect and abandonment (12.8) than those with lesser health. Indeed, those with very poor health had the largest percentage (56.7%) among the neglected and abandoned person

### **Marital status and neglect**

One other area for neglect and abandonment is marital status. The assumption here is that those who are living with spouse are less likely to face neglect and abandonment since they will neutralize the ill effects of neglect and abandonment largely by being together. Table 9 proves this aspect correct.

**Table 9: Marital Status and Abandonment**

Marital Status	Neglect/Abandonment		Total
	Yes	No	
Married	23.2%	76.5%	<b>100.0%</b>
Divorced/ Separated	61.5%	38.5%	<b>100.0%</b>
Widowed	32.2%	67.8%	<b>100.0%</b>
Other	42.9%	57.1%	<b>100.0%</b>

Table 9 shows that petitioners who are widowed are most likely (59.6%) to experience abandonment by defendant or any of the children. Similarly, those who are married are least likely to suffer from neglect and abandonment (23.2%)

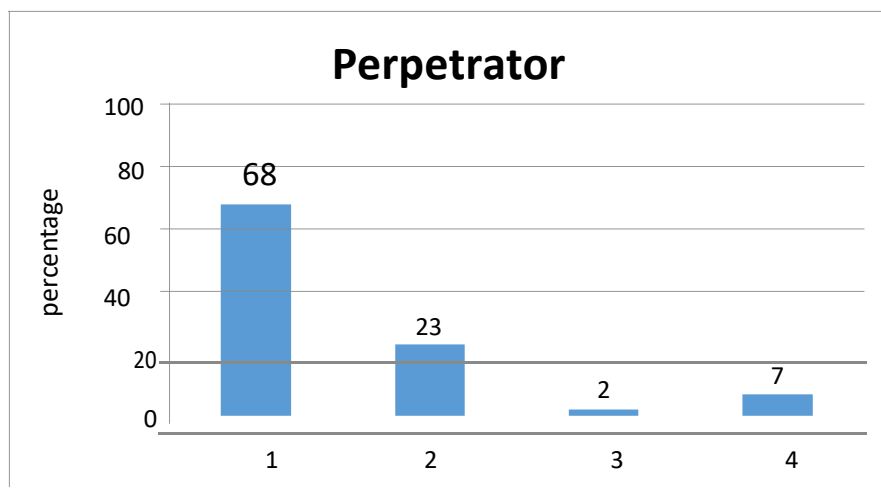
### **Nature of complaint**

We now go to another area of the petitioners' problem, viz., their complaints, and their nature. The petitioners were asked to state the nature of the complaint in the petition that they had filed at the tribunal under the MWPSA. The petitioners were asked to state if their complaint was denial of proper maintenance or property related issues. Majority of the petitioners (54%) stated that denial of proper maintenance was the reason for their complaint and 38% stated property related issues as the reason for their complaint.

### **Perpetrator of the crime**

We then asked the petitioners who was the perpetrator of the crime against them. Figure 2 shows the result of this enquiry.

**Figure 2. Perpetrator as stated in the complaint**



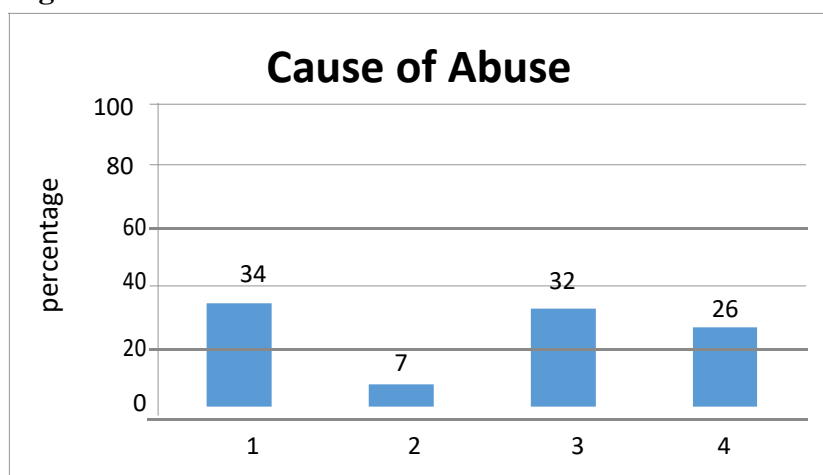
Note: 1 One of the children, 2 = All children, 3 = Grand children, 4 = Relative

The petitioners were asked to state the perpetrator as mentioned in the complaint from four categories 1. One of the children, 2.All children, 3.Grandchildren, 4.Relatives. From the above Figure 2, it will be seen that the majority (68%) of petitioners stated that one of the children was the perpetrator, 23% stated as all children to be the perpetrators, 7% stated relatives as perpetrators and 2% stated grandchildren to be the perpetrators.

### Cause of abuse

Figure 3 gives the cause of abuse on the petitioner by the respondent.

**Figure 3. Cause of Abuse**



Note: 1 = Economic dependence, 2 = Health problem, 3 = Denial of property, 4 = Other reasons

To find out the cause of abuse, the petitioners were asked to identify the reason for abuse. They were asked to choose from the following alternatives. Economic dependence on the defendant, health problem, denial of property transfer, and others. 34% of the petitioners stated their

economic dependence on the defendant to be the cause for abuse, 32% stated denial of property transfer as the reason, 7% stated health problems to be the reason for abuse and 26% stated multiple reasons including the three listed above.

### Sex and cause of abuse

Since one of the basic grounds for abuse could be sex, we enquired into this aspect. Table 15 gives the result.

**Table 10: Sex and Cause of Abuse**

Sex	Cause of Abuse				Total
	My economic dependence on him/her	My health problem	Denial of Property Transfer	Others	
Male	35.7%	10.9%	32.0%	21.4%	100.0%
Female	42.1%	15.8%	32.4%	29.7%	100.0%

Table 10 shows that women differ from men in three respects, namely, economic dependence, health problem and other reasons (which include the first two). In all of them, women score more points than men, which indicate that the accounted reasons are the villains of abuse.

### Other means to resolve issue

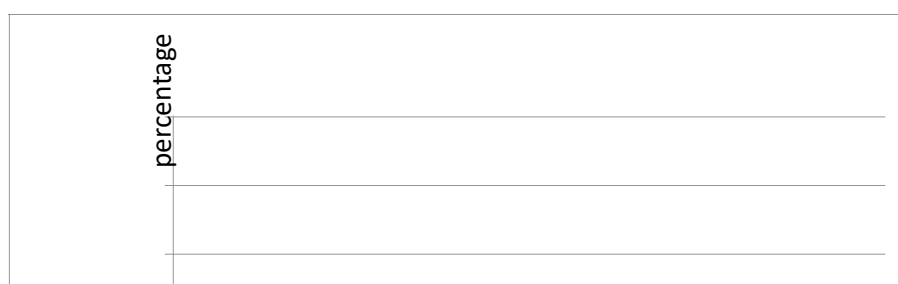
We were interested to know whether the petitioner directly resorted to filing the petition before the tribunal or used other means to resolve the issue. The petitioners were asked if they had used other means and methods to resolve issue before approaching the tribunal. 73% of the respondents stated that they did not try any other means to resolve the issue before approaching the tribunal. 27% stated that they did try to resolve the issue through other means that included talking to the defendant, using the help of other members of the family, the lawyers, police, priests and politicians to mediate between them.

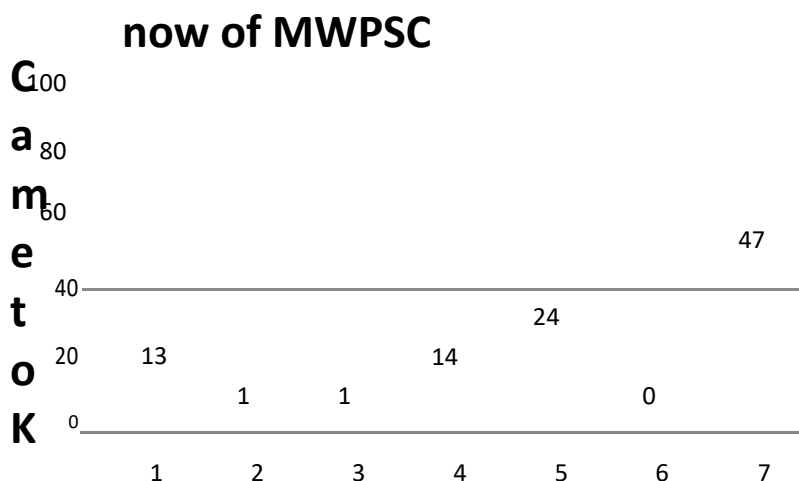
### Knowledge about the MWPSA Act

Our enquiry was directed to find out how the petitioner came to know about the MWPSA.

The answers showed a wide variety of sources from which the petitioner knew about the Act. Please see Figure 4 for details

**Figure 4. Knowledge about MWPSA Act**





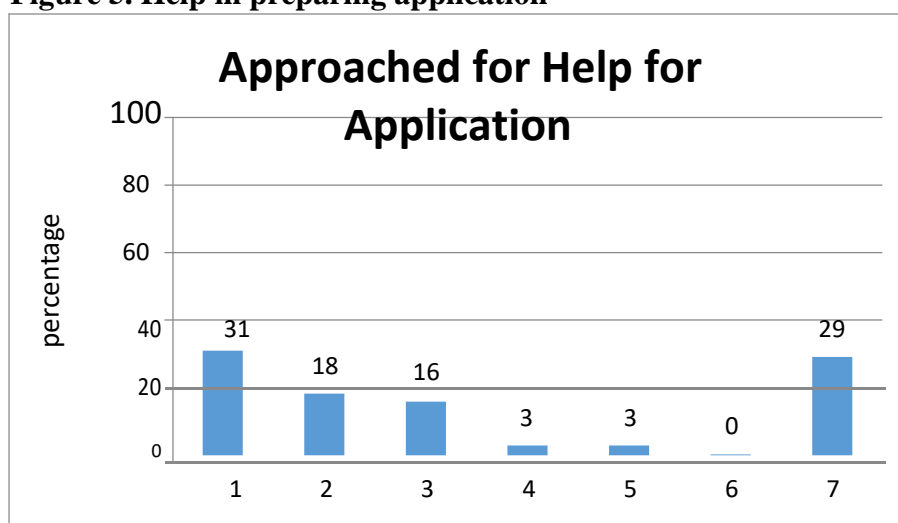
Note: 1 = Newspaper, 2 = Radio, 3 = TV, 4 = Son/daughter, 5 = NGOs, 6 = Relatives, 7 = Others

Figure 4 shows cases how a petitioner came to know of the MWPSCA and they were presented with the options of 1. Newspaper, 2. Radio, 3. TV, 4. Son/daughter, 5. Relative, 6. NGO, 7. Others. The largest number of petitioners, 47%, stated others as the source of knowledge for the MWPSCA. The others were identified as mostly lawyers and police and in a few cases it was District Collector, RDO, ward member, friends etc. 24% mentioned relative, 14% son or daughter, 13% newspaper, 1% radio and 1% for TV.

### Help received in preparing application

The petitioners were asked who helped them in preparing their applications.

**Figure 5. Help in preparing application**



Note: 1 = No help, 2 = Son/daughter, 3. Relative, 4 = Neighbour, 5 = NGO, 6 = Friend, 7 = Others,

The petitioners were asked whether they approached anybody for help in preparing the petition. 31% of the petitioners stated that they required no help in the filing of the petition, 29% stated that others helped in preparation of application and others were

specified as lawyer in most cases, 18% stated help from son or daughter, 16% stated that relative helped, 3% each stated neighbor and NGO as helpers.

### **What Prompted you to Approach the Tribunal**

The petitioners were asked what prompted them to approach the tribunal for resolving their issue.

Various reasons were listed by the petitioner for approaching the tribunal. The following are the major ones.:

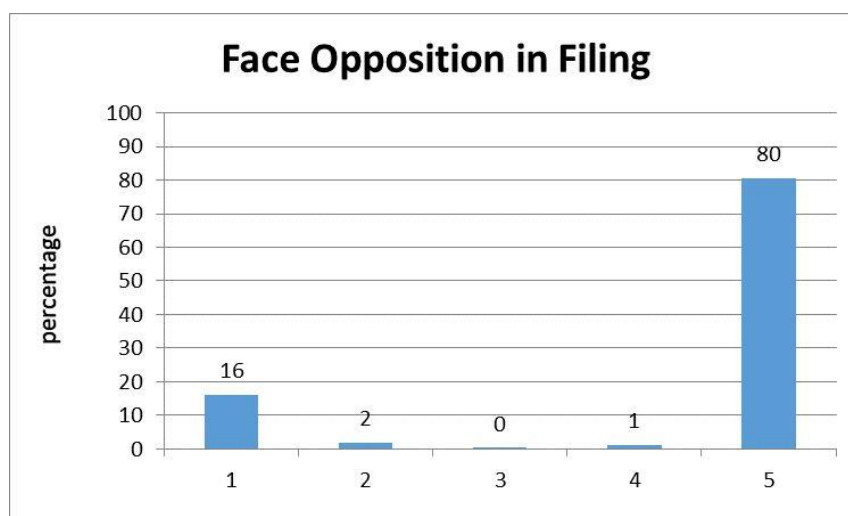
- For 22% of petitioners repeated physical abuse prompted them to approach the tribunal
- For 46% of the petitioners it was denial of financial assistance
- For 37% it was frequent harassment for property
- For 43% it was mental abuse
- For 45% it was neglect
- For 18% it was abandonment.

Many petitioner chose multiple reasons for approaching the tribunal. Very often denial of financial assistance was linked with neglect and mental abuse for filing the petition.

### **Difficulty in filing petition**

Majority of 96% stated that they faced no difficulty in filing the petition and only 4% faced difficulty in filing of petition. The few petitioners who faced difficulties stated that they had problem in communicating with the clerks at the RDO due to language problems.

**Figure 6. Facing opposition in filing the petition**



Note: 1 = Family members, 2 = Relatives, 3 = Friends , 4 = Others, 5 = No opposition

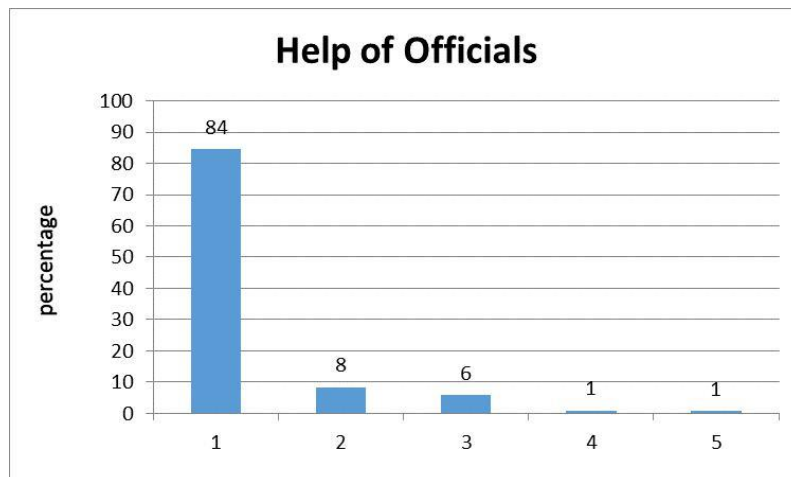
Figure 6 represents the opposition that the petitioner faced in filing of petition. Majority of the petitioners (80%) have stated that they faced no opposition in filing of the petition, 16%

stated that they faced some opposition from family members, 2% stated that they faced opposition from relatives and 1% faced opposition from others.

### Attitude of Officials

Since the attitude of the officials in the matter is critical to the petitioner in that a non-cooperative attitude could make the entire process unpleasant, we examined the attitude of the officials towards the petitioner

**Figure 7. Help from Officials**



Note: 1 = Helpful throughout, 2 = Cordial in the beginning, 3 = Indifferent, 4 = Hostile, 5 = No opinion

84% of the petitioners found the officials helpful throughout the process, 8% found the officials to be cordial in the beginning and 6% found the attitude to be indifferent and 1% found the officials hostile. One percent had no opinion on the matter.

### Counseling

Counseling is an important part of the hearing process. Generally the matter is referred to the counselor before whom both parties could present their case and a possibly amicable settlement could follow. Since restoration of the cordial relationship between the two contending parties is paramount in family disputes, this process assumes great significance. Hence we examined the matter in some detail.

Majority of 57% of the petitioners went for counseling sessions in the RDO and 43% did not go for counseling sessions as their case was not referred to conciliation officers.

Since the attitude of the petitioner towards counseling would be positive, we examined the attitude of the defendant in the matter. The results are given in Figure 8.

**Figure 8. Attitude of defendant during counselling session**



Note: 1 = Favorable, 2 = Indifferent, 3 = Hostile

Figure 8 assesses the attitude of the defendant at counseling sessions as perceived by the petitioner. Attitude was categorized into three - favorable, indifferent and hostile. The attitude of the majority (56%) of the defendants has been perceived as favorable at counseling sessions, 29% were deemed as indifferent during the sessions and 15% were deemed as hostile during the counseling sessions.

#### **Settlement through counseling**

Majority of 63% of the petitioners stated that the case was resolved through counseling. In 37% cases it was not able to settle the issue through counseling.

#### **Age and settlement through counseling**

We assumed that age could be a factor in early and amicable settlement of disputes of older people. The older a person is, the greater could be his anxiety for an early settlement. This is more true when the method of counseling is a dignified and quiet way of arriving at agreements.

**Table 11: Age and settlement through counseling**

Age	Settlement through counseling		Total
	Yes	No	
60-69	55.7%	44.3%	100.0%
70-79	59.3%	40.7%	100.0%
80 Plus	77.2%	22.8%	100.0%

Table 11 shows the age wise distribution of petitioners whose cases were settled through counseling. 77.2% of cases were settled through counselling for the petitioners belonging to 80 plus age group. 59.3% and 55.7% of the petitioners belonging to the age group of 70-79

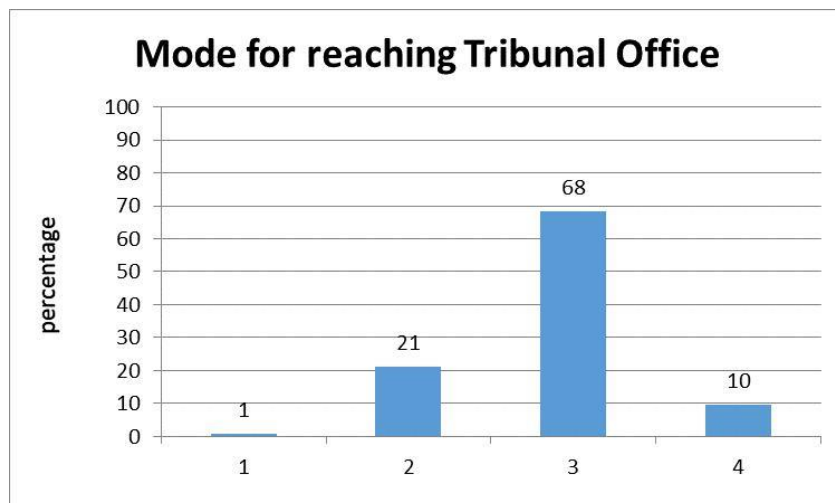
and 60-69 respectively had their cases settled through counselling. This proves our assumption that as age increases, there will be more anxiety to arrive at an early settlement.

### **Petitioner's mode of reaching the Tribunal office**

We then examined the mode of reaching the Tribunal office by the petitioner.

Figure 9 gives this picture.

**Figure 9. Petitioner's mode of reaching tribunal office**



Note: 1 = By Walking, 2 = By Auto rickshaw, 3 = By Bus, 4 = By other paid means

In figure 9, the petitioners' response to the enquiry about how they reached the tribunal's office. Majority of the petitioners (68%) reached the tribunal's office by bus, 21% reached the tribunal's office by autorickshaw, 10% by other paid means and 1% by walking.

### **Age and mode of transport**

Mode of transport has two dimensions – money and convenience. It may be difficult for the very old to walk long distances or even to travel by bus. Since we are dealing with people who cannot afford their maintenance, money also comes in the picture in a big way.

**Table 12: Age and Mode of Transport to Tribunals' office**

Age	Mode of Transport to Tribunals' office				Total
	By walking	By Auto Rickshaw	By Bus	By other paid means	
60-69	0.6%	11.9%	80.8%	6.8%	100.0%
70-79		25.6%	66.8%	7.6%	100.0%
80-Plus		25.9%	16.1%	58%	100.0%



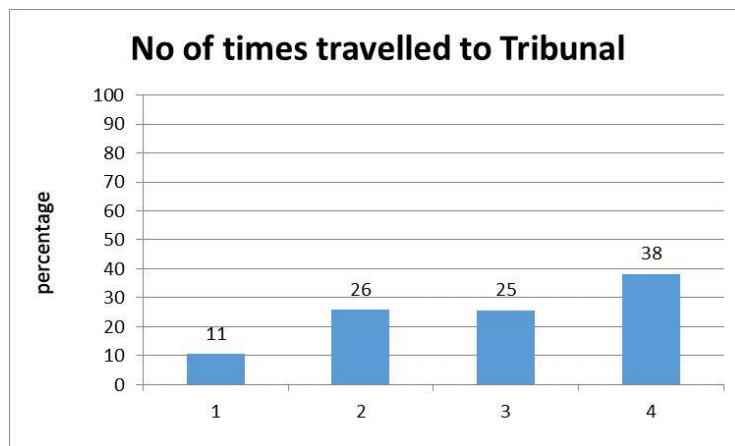
Table 12 shows the age wise distribution of petitioners and their mode of transportation to the tribunal. 80.8% of the petitioners belonging to the age group of 60-69, 66.8% belonging to the age group of 70 – 79 and 16.1% belonging to the age group 80 plus, all travelled by bus. Here, one could notice the inverse relationship between age and bus travel. Only very

few, and that in the 60-69 age group, used to reach the tribunal office by walking. The largest number of the 80 plus used shared taxi and other cheaper paid means to travel between their houses and the tribunal office.

### **Number of times travelled**

For an old person, the number of times he/she has to go to the tribunal office for getting settlement of the petition is very important. Hence we directed our enquiry in this direction.

**Figure 10 Number of times travelled to tribunal.**



Note: 1 = Once, 2 = Twice, 3 = Thrice, 4 = More than 3 times

Figure 10 depicts the number of times the petitioner had to go to the tribunal's office. The largest number of them (38%) stated that they had to travel to the tribunal's office more than three times, 26% had to travel twice, 25% had to travel thrice and only 11% had to travel only once.

### **Travel alone or with help to tribunal's office**

Having to travel to the tribunal's office alone or having to get the company of someone to escort the traveler is also important as this would add another dimension to the tedium of travel. 55% of the petitioners stated that they could manage to travel by themselves and 45% stated that they needed an escort to go to the tribunal's office.

### **Age and need for escort**

When we examined this phenomenon in terms of age, the familiar picture is found to emerge. The age-wise distribution of this episode is given in Table 13.

**Table 13: Age and Managed Travel alone or with accompanying person**

Age	Managed Travel alone or with accompanying person		Total
	Could manage myself	Needed a helper	
60-69	68.4%	31.6%	<b>100.0%</b>
70-79	61.0%	39.0%	<b>100.0%</b>
80 Plus	31.6%	68.4%	<b>100.0%</b>

Table 13 shows the age wise distribution of petitioners and how they managed to travel. With 68.4% the petitioners between the age group of 60-69, 61% between the age group of 70-79 and 31.6% in the age group of 80 plus managed to travel alone. 68.4% in the 80 plus category, 39% between the age group of 70-79 and 31.6% between the age group of 60-69 needed a helper. Again the assumed picture of age being a positive factor in needing escort in travel has become obvious.

#### **Sex and travel with escort**

Another dimension of this situation is sex of the traveler. The assumption that women needed an escort more than men emerged from the picture.

**Table 14: Sex and Managed Travel alone or with accompanying person**

Sex	Managed Travel alone or with accompanying person		Total
	Could manage myself	Needed a helper	
Male	64.0%	36.0%	<b>100.0%</b>
Female	47.0%	53.0%	<b>100.0%</b>

Table 14 shows the sex-wise distribution of petitioners and how they managed to travel. 64% of male and 47% of female petitioners stated that they could manage to travel by themselves. 53% of female and 36% of male petitioners needed a helper.

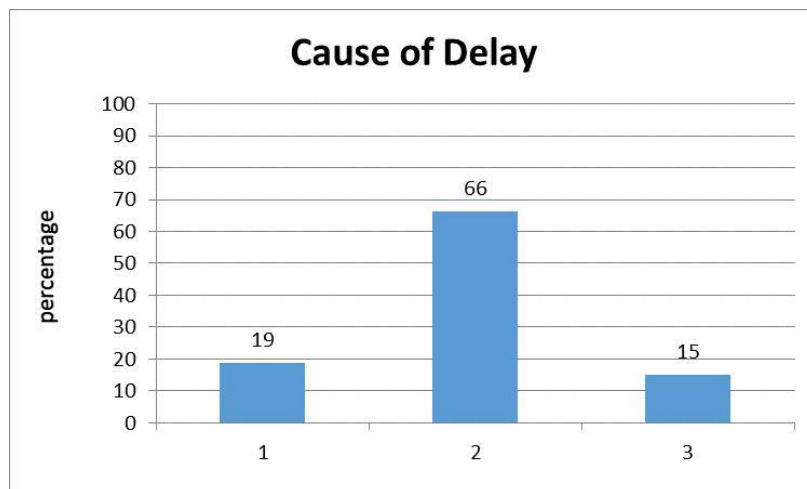
#### **Time taken between the filing of the petition and final verdict.**

Majority of 59% received the verdict within 3 months or less and 41% stated that it took more than three months. In such cases the petitioners stated that their cases have taken time from 1 year to 3 years to reach verdict.

### Cause of delay in disposal of cases

Figure 11 gives the cause of delay in disposing of petitions by tribunals.

**Figure 11. Cause for delay**



Note: 1 = Indifference of officials, 2 = Delay from defendant, 3 = Other reasons

In figure 11 it will be seen that the majority of the petitioners (66%) have stated obstacles from the defendant's side to be the reason for delay in reaching a verdict in cases taking more than three months. 19% of the petitioners have stated that the indifference from the officials have led to the delay and 15% have stated other reasons as the cause for delay.

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## **Chapter 6**

# **Petitioners' Reaction to the Verdict**

### **The verdict and aftermath**

In this chapter the verdict part of both the maintenance petition and property petition will be looked into as well as the working of the appellate tribunal. In the maintenance petition the amount of maintenance, how the payment is being made, default in payment and whether the default was rectified will be looked into. In the property petition also the satisfaction in regard to the petition will be looked into.

In regard to the maintenance petition, 65% of the petitioners found the verdict to be quiet satisfactory, 21% found it acceptable to a great extent, 10% found it not quite acceptable and 4% found it not at all acceptable. The petitioners who did not find the verdict quiet acceptable found it so in cases where even though the petitioners had filed for maintenance they were not given maintenance, rather the revenue divisional officer took the word of the defendants that they shall take care of the petitioner; in other instances the amount decided for maintenance was too low for the petitioner to live with and in some rare cases the defendants refused to take care of the petitioner by saying that they can not provide for them. In such instances the petitioners did not feel that the verdict was acceptable. The petitioners were paid amounts between Rs.500 to Rs.10,000. The latter amount was the highest amount set for maintenance by the Act but very few petitioners were paid amounts as high as Rs.10,000. The defendants often did not reveal their true sources of income or their total household income, they rather gave a much smaller amount and so the maintenance amount was settled on that basis when in reality the defendant could pay a much higher amount.

58% of the petitioners stated that the amount decided as maintenance amount was sufficient and only 42% did not find it to be sufficient. The amount was split among the children in case when the petitioner was not staying with any of them. If the petitioner was staying with one of the children and the petition was against the rest of the siblings the rest of the children were liable to pay the maintenance amount. A sex-wise differentiation is brought in the split payment of amount only if the amount is split between a brother and a sister. In such cases the brother was liable to pay a higher amount than the sister and in case of two female siblings both were liable to pay the same amount. 71% of the petitioners made the payment through installments and 28% made the payment by lump sum. The remaining 1% represented the petitioners who were supposed to be paid the maintenance amount but have not received any

payment. For 47% of the petitioners there has been default in the payment of installments. In the case of default only 32% approached the tribunal about it whereas the majority (68%) did not approach the tribunal. This is mostly because the petitioners found it difficult to travel and go through the same process of going to the tribunal. Due to this difficulty most of the petitioners gave up. Of the 32% who approached the tribunal, only 22% have received the payments without default. 59% of the petitioners stated that they are getting the payment promptly at present.

In regard to property petition, out of the 38% of property petitions, 61% found the verdict to be favorable and 20% found the verdict not at all favorable. 63% of petitioners were satisfied with the verdict. 37% were not satisfied and 20% of them found the verdict not at all favorable. In two instances (1) the property was transferred before 2007 in which case the property cannot be transferred back to the petitioner, and (2) the property would have been sold off to a third party In either case the property cannot be transferred back to the petitioner. As with the filing of the petition, only 47% of the petitioners got back their property and majority of 53% did not get back their property due to the above stated reasons.

### **At the Appellate Tribunal**

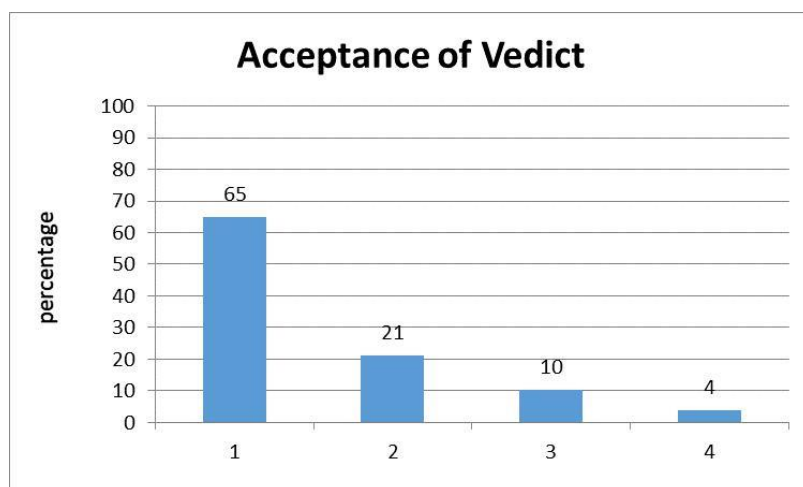
With regard to Appellate Tribunal only a limited number of petitioners had gone for appeal. Among those who did go for appeal, 39% stated that it took 2 months for their petition to be disposed off, for 19% it took only a month and for 15% it took more than four months to clear off the petition. 66% of the petitioners were fully satisfied with the verdict, 13% were satisfied to a great extent and 21% of petitioners did not feel that they got any relief from the appellate tribunal. In regard to appeals on maintenance petitions 64% of petitioners stated that they were not getting the payment regularly even now as opposed to the 36% who were receiving payment regularly after approaching the appellate tribunal.

Detailed distribution of the answers is given in the following figures and tables.

### **Acceptance of the verdict**

In figure 1, we give the details regarding acceptability of the verdict to the Petitioner.

**Figure 1. Acceptability of the verdict**



Note: 1 = Fully acceptable, 2 = Acceptable to a great extent, 3 = Not quite acceptable, 4 = Not at all acceptable

In figure 1, 65% of the petitioners found the verdict fully acceptable, 21% found it acceptable to a great extent, 10% found it not quiet acceptable and 4% found it to be not at all acceptable.

### **Education and acceptability of verdict**

Since we thought that education of the petitioner would have some bearing on acceptability, we examined this aspect in detail. Table 1 gives the results.

**Table 1: Education of petitioner and acceptability of Verdict**

Education	Verdict acceptable				Total
	Quite acceptable	Acceptable to a great extent	Not quite acceptable	Not at all acceptable	
Illiterate	73.6%	15.7%	7.9%	2.9%	100.0%
Primary	60.6%	24.5%	10.8%	4.0%	100.0%
Secondary	62.5%	20.0%	12.5%	5.0%	100.0%
Degree	78.6%	7.1%	14.3%		100.0%
PG				100.0%	100.0%
Others	50.0%	33.3%	16.7%		100.0%

Table 1 shows the education-wise distribution of acceptability of maintenance verdicts. By and large, the verdict was quite acceptable to the vast majority of the petitioners of all

educational levels. The only exception is among the Post Graduates where there is hundred percent non acceptability. This is ignorable as the number of this category is quite small.

### **Occupation and acceptability of the verdict**

Table 2 shows the occupation-wise distribution of verdicts' acceptability. Except for the business class, there has been good acceptability of the verdict by all groups, especially by the non-working group (71.4%). For the business class, however, it was only 25%

### **Maintenance amount sufficient or not**

To an enquiry whether the maintenance amount was sufficient or not, 58% stated the amount to be sufficient to meet the basic needs of the petitioner and 42% found it insufficient to meet the needs of the petitioner.

### **Monthly income and sufficiency**

Since the income of the petitioner has a bearing on opinion regarding sufficiency of the amount to meet monthly expenditure an enquiry was directed to this aspect.

**Table 2: Monthly income and sufficiency of amount to meet basic needs**

Monthly Income	Sufficiency of amount to meet basic needs		Total
	Yes	No	
No Income	41.4%	58.6%	<b>100.0%</b>
Below1000	58.5%	39.0%	<b>100.0%</b>
1000-3000	62.5%	37.5%	<b>100.0%</b>
3000-5000	66.7%	33.3%	<b>100.0%</b>
Above 5000	75.0%	25.0%	<b>100.0%</b>

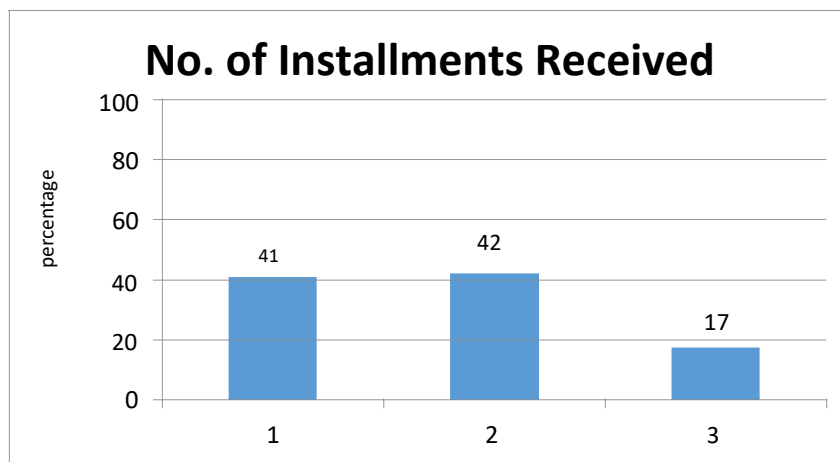
Table 2 shows the monthly income of the petitioners and the sufficiency of the maintenance amount to meet the needs of the petitioners. There is strong correlation between income and sufficiency of the maintenance amount. As income increases, feeling of sufficiency becomes more favorable. 75% of petitioners with monthly income of above Rs. 5000 found the maintenance amount to be sufficient whereas 58.6% with no income found the amount insufficient.

### **Mode of payment**

Majority of 71% of defendants made the payment via installments and 28% made payment via lump sum and 1% stated they have not yet given the payment.

Payment of maintenance allowance ordered by the tribunal is in two forms – lump sum and by installments. For lump sum payment, there are only two choices – payment or non payment. In the case of installments, it is possible for the defendant to make some payment and then become delinquent. In Figure 3 we give the number of installments received by the petitioner. This will reveal the fact that even when the Tribunal would have ordered the installments to be promptly paid, the defendant(s) would have defaulted payment.

**Figure 2. Number of installments received**



Note: 1 = Received 1 to 4 Installments, 2 = Received 5 to 9 Installments, 3 = 10 or more installments

In cases where the maintenance is paid through installments the number of installments received is assessed. 42% of the petitioners stated that they have received 5 to 9 installments till date, 41% have stated that they received 1 to 4 installments and 17% stated that they have received 10 or more installments.

### **Approaching tribunal in case of default**

Majority of the respondents (68%) have stated that they did not approach the tribunal in case of default and 32% stated that they approached the tribunal in case of default. Not approaching the tribunal was mainly due to the petitioner's feeling that he/she has to undergo the same ordeal with no better prospect. Our doubt is endorsed by the answers given by the petitioner in the following section.

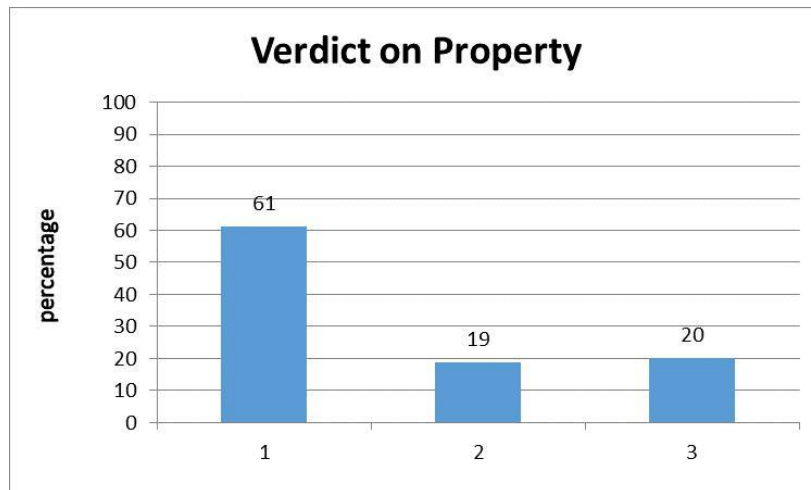
### **Outcome of approaching the tribunal for default in payment**

After approaching the tribunal in the case of default, majority of the respondents (78%) have stated that the tribunal was ineffective in rectifying the situation as they did not receive payments so far. Only 22% of the petitioners have stated that they received payment after approaching the tribunal.



## Outcome of verdict on property petitions

**Figure 3. Verdict on property**



Note: 1 = Favorable, 2 = Not so favorable, 3 = Not at all favorable

In the matter of verdict on property petitions it was shown that the majority of 61% of petitioners found the verdict to be favorable, 19% found the verdict to be not so favorable and 20% found the verdict to be not at all favorable.

Only 47% of the petitioners stated that they got back possession of the property after the verdict. 53% of the petitioners stated that they did not get back the property. The latter outcome was due to technical reasons as explained above.

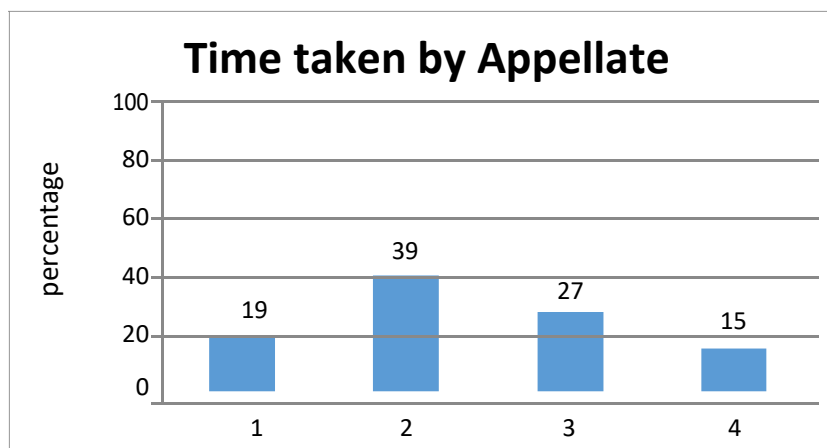
## At the Appellate Tribunal

We may now take a look at the dynamics of the Appellate Tribunal's work.

### Time taken by Appellate Tribunal

Figure 4 gives the time taken by the Appellate Tribunal in disposing cases.

**Figure 4. Time taken by appellate tribunal**



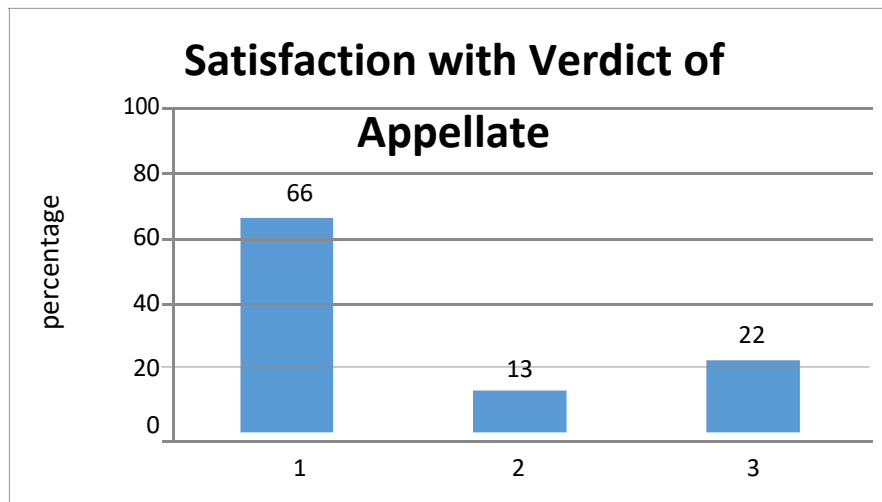
Note: 1 = One month, 2 = 2 months, 3 = 3 months, 4 = 4 or more months

In the cases that have gone for appeal, for 19% petitioners it took only one month, 39% respondents stated that the appellate tribunal took 2 months to dispose off the case and 27% stated that it took 3 months. For 15% it took four months or more

### **Satisfaction with the verdict of the Appellate tribunal**

In figure 5, we give the satisfaction of the petitioner with the verdict of the Appellate tribunal.

**Figure 5. Satisfaction with the Verdict of Appellate Tribunal**



Note: 1 = Very much satisfied, 2 = Satisfied to a great extent, 3 = Not satisfied

Majority of the petitioners (66%) stated they were very much satisfied with the verdict, 13%

were satisfied to a great extent and 22% were not satisfied with verdict.

### **Getting regular payment**

Only 36% of the petitioners stated that they are receiving payment regularly now as a result of the verdict of the Appellate tribunal. Majority of 64% stated that they are not getting the payment regularly. This shows that the verdict of the Appellate Tribunal also has not been implemented promptly.

### **Conclusion**

On the whole, it may be pointed out that there are many flaws in the implementation of the verdict given by both the Maintenance Tribunal and the Appellate Tribunal. In the case of the Maintenance Tribunal, several cases were found where the verdict was not implemented or not implemented fully. Many petitioners who were unhappy with the verdict did not point this out to the maintenance tribunal because they thought that it will be a waste of time and money to approach the tribunal again with a nonpayment complaint against the defendant as they feared that the same result will follow. In other cases, the defendant would pay a few installments promptly and then default. Here also the petitioner will be very much frustrated as he/she will have to approach the tribunal again with all the agony that it would entail. In

the case of the appellate tribunal, we have shown that many petitioners were not happy with the verdict. Since there was no further appeal, the petitioner had to reconcile with the given verdict.

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## **Chapter 7**

# **Post-Verdict Changes in the Petitioner**

This chapter looks into the changes that have taken place in the life of the petitioners in terms of their relationship with the defendant after the verdict of the Tribunal.

The petitioners were asked if any changes had occurred in their relationship with the defendant after the verdict. 43% stated that it has been the same as before; for 31% of petitioners their relationship became cordial whereas for 24% it became worse. In relation to the change in residence after the verdict in case where the petitioner was living with the defendant, in such cases majority of the petitioners (52%) stated that there was no change in their living arrangement as they were not staying with the defendant, 29% stated that they did not shift their residence from the defendant after the verdict and 20% stated that the petitioners did shift their residence after the verdict.

On thoughts about going to the tribunal, 33% of the petitioners do think they are better off after the verdict as opposed to 15% who think they are not at all better off after the verdict. 44% of the petitioners are comfortable with their present living arrangement and 9% stated that they are not at all comfortable with their present living arrangement.

On their thoughts about taking the defendant to the tribunal, 55% of the petitioners do not feel that they should have avoided taking the defendant to the tribunal and 8% do very much feel that they should have avoided taking the defendant to the tribunal. In general 41% of the petitioners stated that they are very much relaxed after the tribunals' verdict; only 13% state that they do not at all feel relaxed after the tribunal's verdict. 45% of the petitioners stated that their relationship with the members of the family is same as before while 34% state that it has changed for the better and 21% state that it has changed for the worse. As for the kin blaming the petitioners for the way they acted, 72% of the petitioners felt that the defendants and the rest of the family do not seem to be bothered by it, 15% are bothered and 13% of petitioners felt that all of them do blame the petitioner.

The petitioners were asked how they felt about living in old age homes as old age homes are part of the MWPSA Act. In this regard the petitioners were asked to state the opinion in regard to staying at an old age home. The petitioners gave two opinions; one half did not have any opinion in regard to staying at an old age home and the question was too emotional for them to respond. The other half answered the question in vague terms. Many of the petitioners having gone through abuse, neglect and or abandonment at the hands of their own children or

relatives found it difficult to answer the question easily. The petitioners who did have opinion about staying at old age homes stated that personally they do not prefer to stay in such homes if it was up to them alone to decide. The petitioners were of the opinion that if an elderly person's circumstances demand that he/she be put up in an old age home then it can be considered.

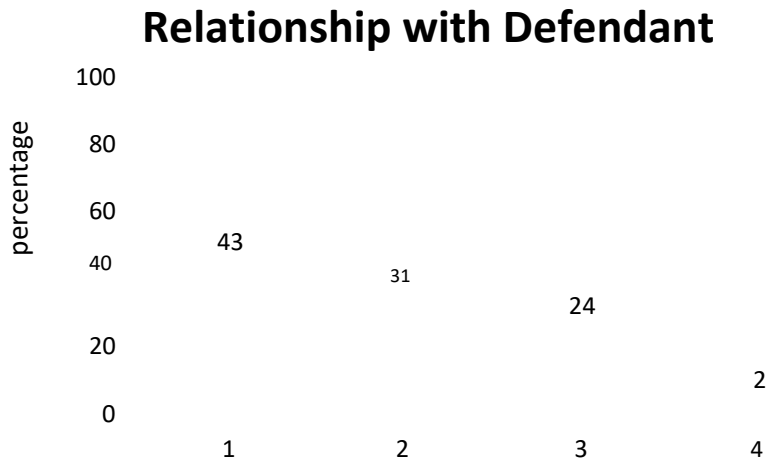
There was only 1% of petitioners living at old age homes at the time of the study. Most of these petitioners were admitted to the old age homes by their children and after having them admitted the children relieved themselves from any responsibility of taking care of the parents. In such cases the old age home authorities helped the petitioners and urged them to approach the tribunal so as to demand that they be provided maintenance. The plight of the petitioners at the old age home is not comparable to the comfort of their own home but the petitioners are protected as they have shelter and their needs are taken care of. The Social Justice Department has a care/old age home in every district where underprivileged elderly persons are admitted if they are found to be abused, neglected or abandoned to the extent that it calls for the intervention of government agencies. When such interventions are needed the social justice officer is entrusted with the task of rehabilitating the elderly and placing the elderly under the right care. The government old age homes are not equipped to handle a large number of petitioners if they chose to live in the government designated old age homes. The old age homes need to be equipped to adapt and cater to the geriatric needs of the elderly living there.

The petitioners were asked to state their opinion about the Act with regard to their knowledge about it. Interestingly, majority of the petitioners who had filed maintenance or property petitions had very limited knowledge about the Act and its provisions. The petitioners who are part of senior welfare associations have a very thorough awareness about the provisions of the Act whereas petitioners who approach the tribunal on the recommendation of the police, lawyers and others have very limited or no awareness about the Act. Our investigators stated that when asked about the Act most petitioners did not know about it and had not realized that they had filed this petition under this Act.

Further details about the different issues described above are given in the figures and tables given below.

**Figure 1. Relationship of the Petitioner with defendant after the verdict**

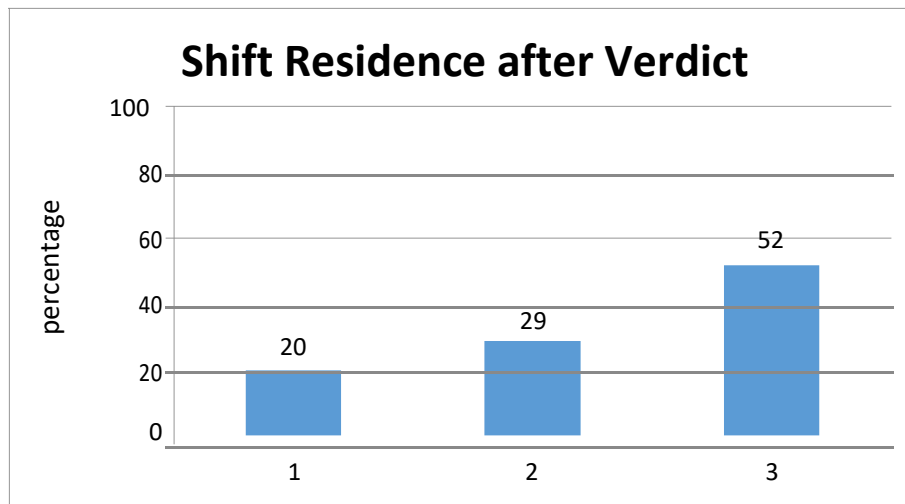




Note: 1 Same relationship, 2 became cordial, 3 became worse, 4 Other answers

Figure 1 represents the relationship of the petitioner with the defendant after the verdict. 43% have stated that the relationship is the same as before, 31% stated that the relationship became cordial, 24% stated that the relationship became worse and 2% gave other answers.

**Figure 2. Shifted residence after verdict.**



Note: 1 Shifted residence, 2 did not shift residence, 3 No change in living arrangement

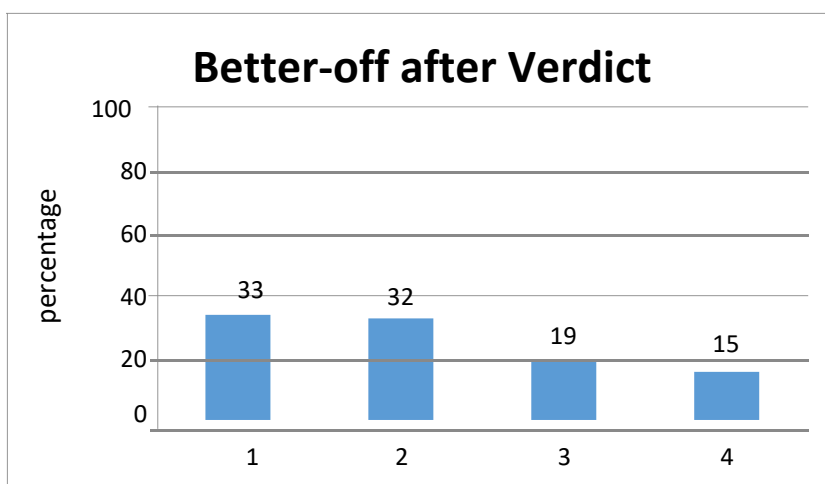
Figure 2 represents the shift in residence after the verdict in case the petitioner was staying with the defendant. In such cases where the petitioner was staying with the defendant, majority (52%) stated that there was no change in their living arrangement as they were not staying with the defendant, 29% stated that they did not shift their residence from the defendant after the verdict and 20% stated that the petitioner did shift their residence after the verdict.

**Table 1: Sex and Shifted residence after verdict**

Sex	Shifted residence after verdict			Total
	Yes	No	Did not live with defendant	
Male	15.1%	31.2%	53.7%	100.0%
Female	23.7%	26.3%	50.0%	100.0%

Table 1 shows the sex-wise distribution of shift in residence after the verdict. 15.1% of male and 23.7% of female has shifted their residence after the verdict whereas 31.2% male and 26.3% of female verdict has not shifted their residence after the verdict. 53.7% male and 50% of female were not living with defendant.

**Figure 3. Assessment of situation after verdict.**

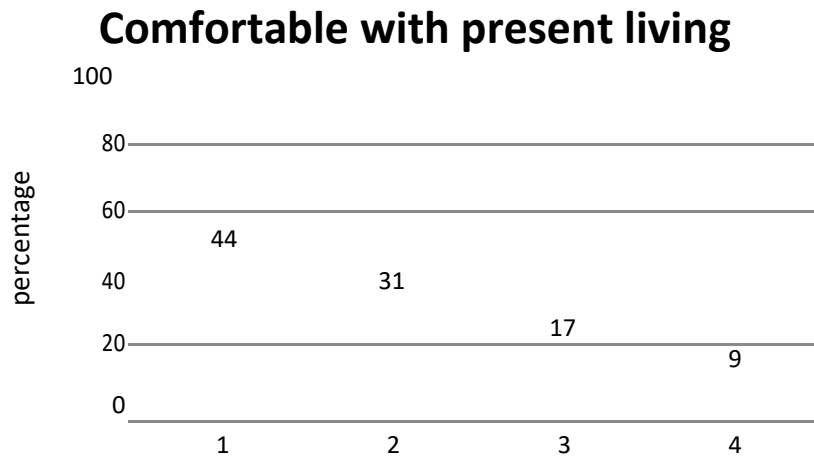


Note: 1 Very much better, 2 Much better, 3 Not much better, 4 Not at all better

Figure 3 represent the assessment of the petitioner after considering all the facts, if they are better off after the verdict. 33% have stated that they are 'very much' better off after the verdict, 32% have stated that they are 'much' better, 19% stated that they are 'not much' better off after verdict, and 15% have stated that they are 'not at all' better off after the verdict.

**Figure 4. Comfortable with the present living arrangement.**

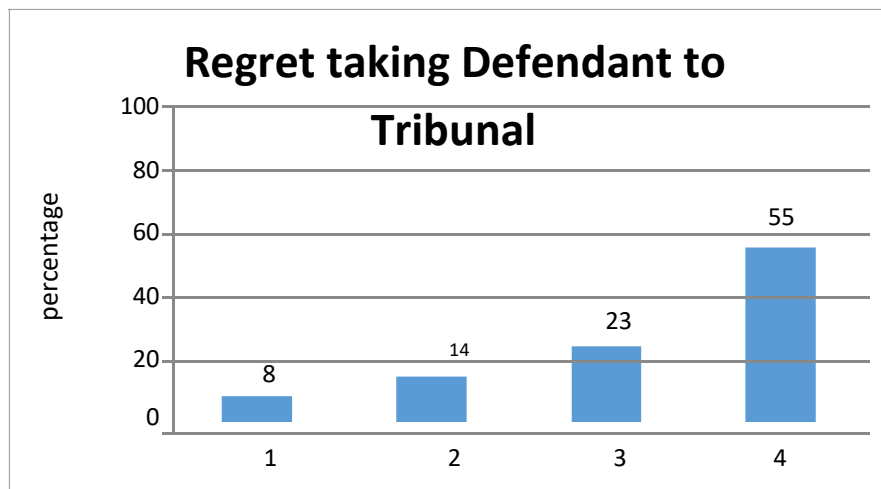




Note: 1 very much satisfied, 2 much satisfied, 3 Not much, 4 Not at all

Figure 4 assesses the satisfaction of the petitioner with regard to the present living arrangement. 44% is ‘very much satisfied’, 31% ‘much’ satisfied, 17% ‘not much’ satisfied and 9% is ‘not at all’ satisfied with the present living arrangement.

**Figure 5. Regret taking defendant to tribunal**



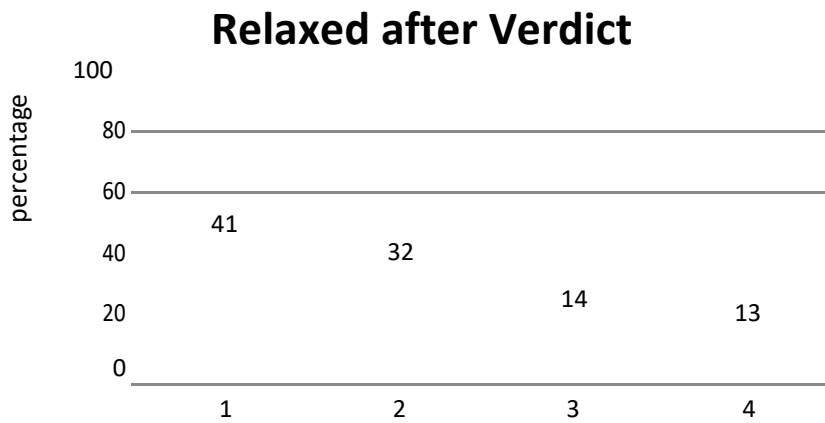
Note: 1 Very much regret, 2 Much regret, 3 Not much, 4 Not at all, 2

Majority (55%) have stated they ‘not at all’ have any regret in taking the defendant to the tribunal, 23% ‘not much’ regret, 14% have ‘much’ regret and 8% ‘very much’ regret taking the defendant to the tribunal.

**Figure 6. Feel relaxed after the verdict**



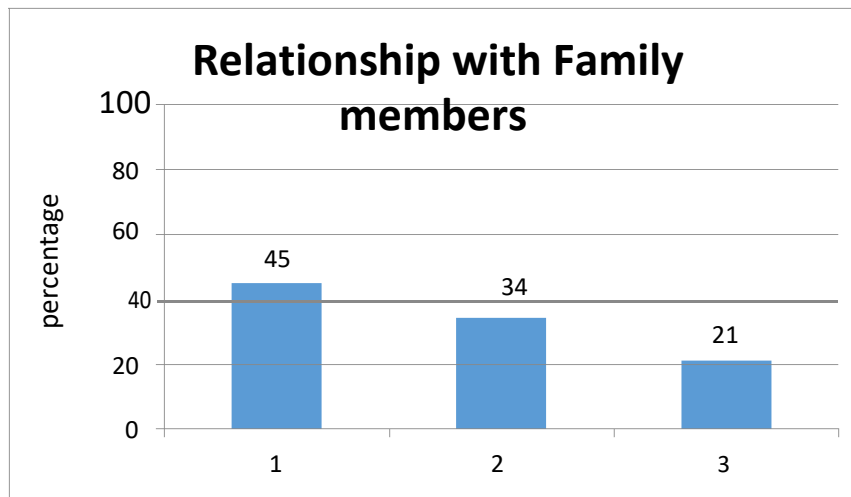




Note: 1 Very much relaxed, 2 Much relaxed, 3 Not much, 4 Not at all

In figure 6 assessment is made with regard to the petitioner feeling relaxed after the verdict. 41% have stated that they are ‘very much’ relaxed after the verdict, 32% stated that they are ‘much’ relaxed after the verdict, 14% stated that they are ‘not much’ relaxed after the verdict and 13% have stated that they are ‘not at all’ relaxed after the verdict.

**Figure 7. Assessment of relationship with family members.**

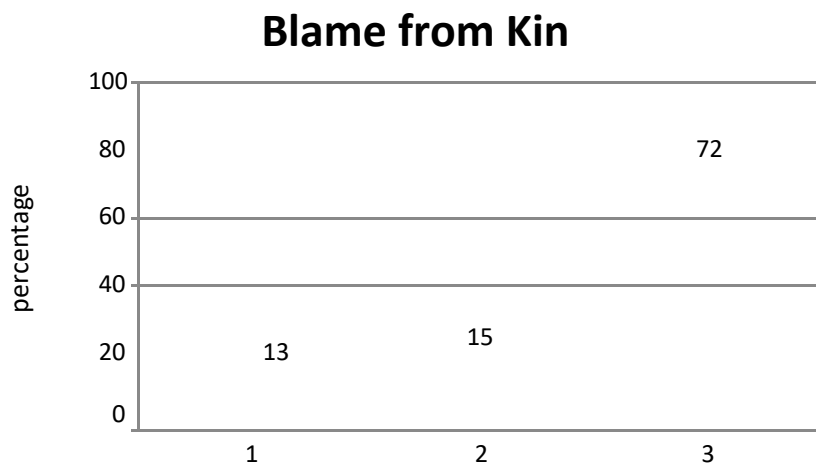


Note: 1 Same as before, 2 Changed for better, 3 Changed for worse

Figure 7 shows that 45% of the petitioners have stated that their relationship with the members of the family is same as before, 34% state that it has changed for the better and 21% state that it has changed for worse.

**Figure 8. Kin blaming petitioner**





Note: 1 All kin blame, 2 Some kin blame, 3 Do not blame

In figure 8, the petitioner was asked if the petitioner's kin blamed them for their act. Majority of 72% stated that the kin do not seem to bother about it, 15% stated that 'some of them' do blame the petitioner and 13% stated that all the kin blame the petitioner.

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## **Chapter 8**

### **Defendants' Profile and Perspectives on MWPS Act**

In this chapter the defendants' socio-economic background and their perspective about the petitioner approaching the tribunal and the effects of the trial on the defendants are examined.

In the study, the male defendants outnumbered female defendants - 69% as opposed to 31%. This is because among the children of a Petitioner, it is usually the male child who will be earning and having an income. As such it will be the duty of the son to take care of the parent. Even otherwise, the son's duty is paramount over that of the daughter in looking after the parent in old age.

The defendants' age groups were divided into four - below 40, 40-49, 50-59 and 60 plus. Majority of the defendants belonged to the age group of 40-49 with 49% followed by 50-59 age group with 24%. Below 40 constituted 18% and the defendants 60 and above were 9%. Majority of the defendants belonged to the Hindu backward religion and the least number of defendants were from the SC/ST category. Christians with 27%, Hindu forward with 19% and Muslims with 11% constituted other religious groups.

50% of the defendants lived in rural areas, 35% in semi urban areas and 15% in urban areas. The marital status of the defendants portrays that 89% of the defendants are married and only 4% are single. In regard to the number of siblings the defendant has, 51% of the defendants have 2 to 3 siblings and 8% of defendants have more than 6 siblings.

The educational qualification of the defendants shows that majority (56%) have high school education and only 2% have qualification up to post-graduate level. 27% stated that they have no employment at all, 23% worked as labourers and only 4% have employment in the government sector.

As for the income of the defendants, 69% of them have a monthly income below Rs. 25,000. 17% of the defendants stated they have no income and 14% have income between Rs.25,000 and Rs.50,000. As for the total household income 75% of the defendants have below Rs. 25,000, 23% have income in the range of Rs.25,000 to Rs.50,000 and only 2% have income between Rs.50,000 to Rs.75,000.

The living arrangements of the defendants were studied. 88% of the defendants own a house and only 10% live in rented homes. As for the remaining 2%, they live in the ancestral property. 53% of the defendants stated that the petitioner was living with the defendant before they approached the tribunal and after the filing of the petition only 37% of the petitioners continue to live with the defendant whereas 63% do not live with the defendant. Various reasons have resulted in the

petitioner leaving the defendant. 69 of the defendants stated frequent quarrels with family members as the reason for the petitioner's leaving, 24% stated that the living arrangement was not convenient for the petitioner and 7% have stated inadequate space as the reason.

The defendants were asked to state what they thought was the reason for the petitioner for approaching the tribunal. 47% stated frequent family quarrels, 35% felt inadequate care by the family, 20% felt neglect as the reason. In the case of 20%, the petitioners wanted to get possession of the house. Many of the defendants stated a combination of all these reasons for the petitioner approaching the tribunal.

The defendants were asked to make an assessment about the behavior of the petitioner, that is, if the petitioner had displayed any peculiar behavioral pattern. To this, 42% of the defendants responded with yes answer. 58% did not notice any visible peculiar behavior in the petitioner. The defendants who noticed peculiar behavior stated that the petitioner would withdraw, feel irritated, become angry and or depressed.

Asked about their thoughts on the petitioner taking the defendant to the tribunal, 55% of the petitioners felt that the petitioner should not have taken the defendant to the tribunal because they felt it was unnecessary and the issue at hand could have been solved otherwise. 60% of the defendants felt bad about being taken to the tribunal as they felt it was a personal matter and could have been solved otherwise whereas others felt that the complaint made by the petitioner was baseless and made up to compensate for the faults of the petitioner himself/herself. Some defendants said that the petitioner have filed complaints with the tribunal to get attention from the defendants. Only 10% of the defendants tried to persuade the petitioners from not resorting to approaching the tribunal.

At the tribunal level, 68% of the defendants stated that there was conciliation meeting and 64% of the defendants attended the meeting. The defendants who did not attend the conciliation meeting did so because they felt the matter was not something that could have been settled through counseling. The defendants who attended the meeting felt it was really helpful in clearing the air with the petitioners and it helped to facilitate communication between them. 92% of the defendants who were summoned for counseling attended the meeting. 8% of the defendant who did not attend the meeting conveyed that they didn't do so because they felt that the complaint was on unjust grounds. 82% of the defendants found the verdict to be acceptable, only 18% of the defendants felt that justice was not done to them. Only 6% of the defendants went for appeal to the higher authority which in this case is the High Court. The grounds for going for appeal were when the amount set for maintenance was felt to be beyond their capacity. In rare cases involving property it was to find a more reasonable verdict. In the maintenance cases 50% was payable by the defendants themselves and 50% was payable jointly with others. 53% of the defendants accepted the lump sum

payment and 47% opted for payment by installment. 50% stated that they have been making payments without default whereas the other 50% has stated that they had defaulted in making payments to the defendants and the reason which was mostly stated was economic difficulties. In rare cases the defendants have stated that the petitioners have other income source that they can use.

The defendants were asked how they felt about the existing penalty of 3 months of imprisonment and fine of Rs.3000. 56% of the defendants felt that it was a fair punishment as opposed to the 44% who felt the punishment was unjust.

In cases relating to property, the property was returned to the petitioner in most cases. In cases where both parties were staying at the ancestral property the tribunal has asked the defendants to move out of the house and to let the petitioners live by themselves in their own home without being subjected to abuse by their own children or their spouses and relatives.

In regard to the post-verdict relationship with the petitioner, 40% of the defendants have stated that it has been the same as before, 38% stated that it has become more cordial, 13% stated that it has become more hostile than before; 9% gave other replies. In these cases the defendants have stated that they have no relationship with the petitioner at present. 56% of the petitioners stated that they would like for reconciliation with the petitioner of whom 41% have taken the steps towards reconciliation. Interestingly 86% of the petitioners felt that it was the duty of the children to take care of the parent. The 14% of the defendants who did not think it was the duty of the children to take care of the parent stated so because they felt that when the parents have the means to care for themselves the children shouldn't be compelled to do so as they have their own families to take care of. But in general the defendants are in agreement that it is the duty of the child to take care of the old parent who is in bad health and with poor economic background.

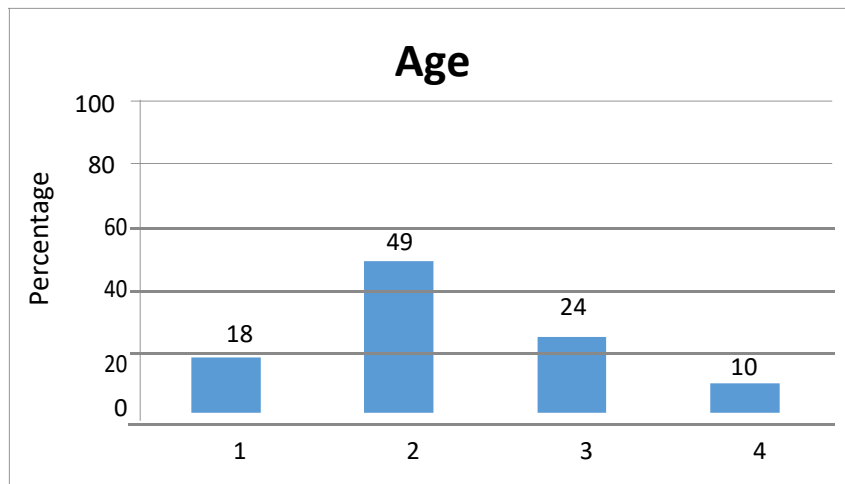
With regard to the opinion about the MWPSA, 83% stated that the Act is good in some way, 10% felt it is unnecessary as existing laws could handle the situation adequately and 7% felt that it needed amendments.

The following description and figures look into detail the above discussed points

### **Sex wise analysis of defendants**

Sex wise analysis of the defendants showed that 69% of the respondents is male and 31% is female.

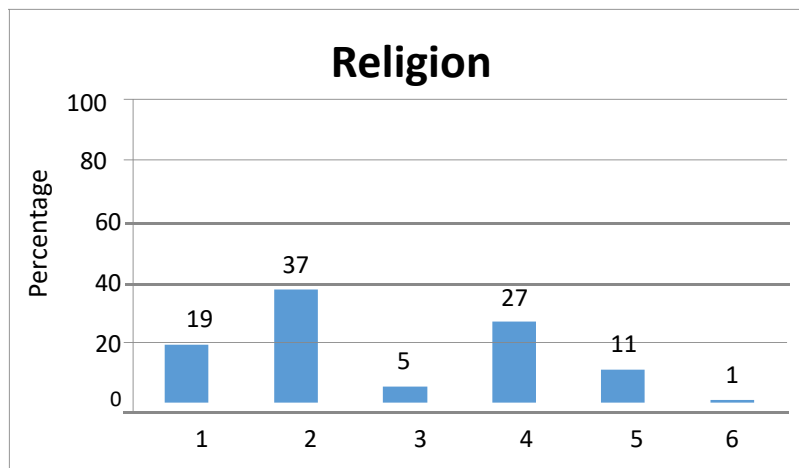
**Figure 1. Age wise analysis**



Note: 1. Below 40, 2. 40-49, 3. 50-59, 4. 60 plus

Figure 1 represents the age wise analysis of the defendants. Age was categorized into four groups of (1) Below 40, (2) 40 – 49, (3) 50 – 59, (4) 60 and above. 18% of the defendants belong to the age group of below 40. Majority of the defendants (49%) belong to the age group of 40 – 49, 24% belong to the age group of 50 – 59, and 10% belong to the age group of 60 and above.

**Figure 2. Religion-wise analysis of defendants**



Note: 1 Hindu forward, 2 Hindu backward, 3 SC/ST, 4 Christian, 5 Muslim, 6 Others

Figure 2 represents the religion-wise analysis of defendant. Religion was categorized into 6 categories: (1) Hindu Forward, (2) Hindu Backward, (3) SC/ST, (4) Christian, (5) Muslim and (6) other. 37% belong to the Hindu Backward religion, 27% belong to Christian, 19% belong to Hindu Forward, 11% belong to Muslim, 5% belong to SC/ST and 1% belong to other categories.

**Figure 3. Place of residence**

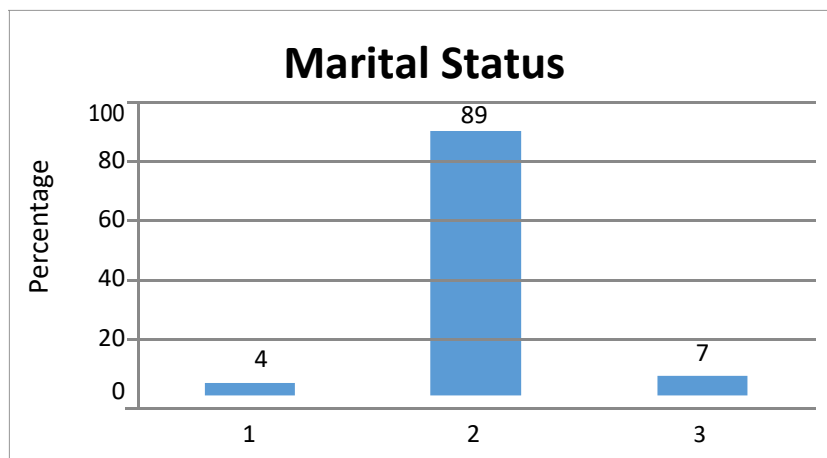




Note: 1 Urban, 2 Semi-urban, 3 Rural

Figure 3 represents the place of residence of the defendants. Place of residence was categorized into 3 categories (1) Urban, (2) Semi-urban and (3) Rural. 50% of the defendants stated their place of residence as rural, 35% of stated semi-urban as their place of residence and 15% stated their place of residence as urban.

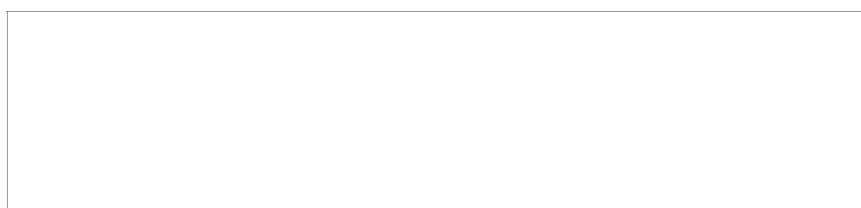
**Figure 4. Marital Status**

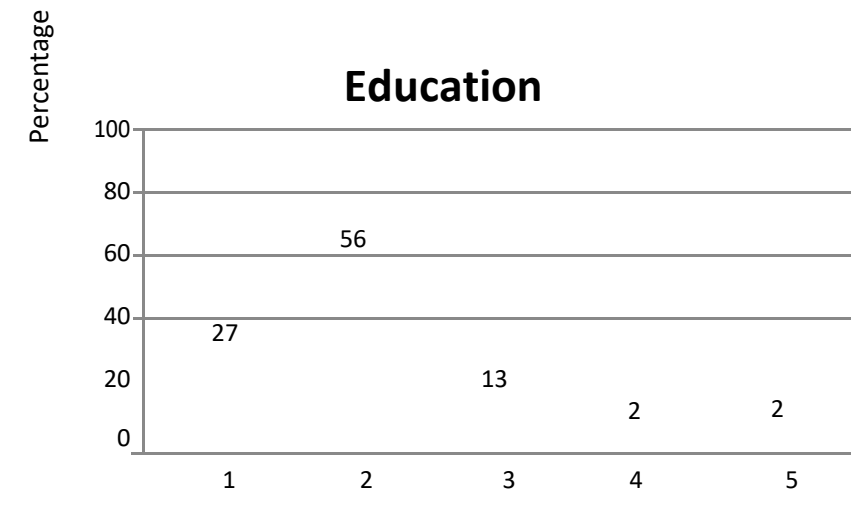


Note: 1 Single, 2 Married, 3 Widowed/separated

Figure 4 represent the marital status of the defendants; three categories were identified for this, (1) Single, (2) Married, (3) Widowed/separated. Majority of 89% are married, 7% is either widowed or separated and 4% is single.

**Figure 5. Education**





Note: 1 Below high school, 2 High school, 3 College, 4 PG, 5 Others

Figure 5 represents the educational status of the defendants. There were 5 categories (1) Below high school, (2) High school, (3) College, (4) PG, (5) Others. Majority of the respondents (56%) stated their educational status to be high school, 27% below high school, 13% college and 2% PG and 5% for others. These others stated they had only primary education.

**Figure 6. Occupational status of defendants.**







Note: 1 No employment, 2 Farmer, 3 Labourer, 4 Trade/business, 5 Govt. employee, 6 Others

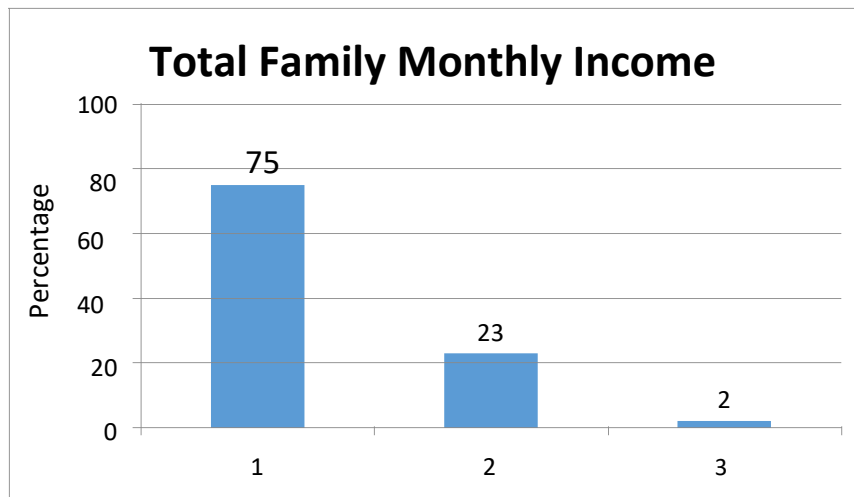
Figure 4 analyses the occupational status of the defendants. There were 6 categories of (1) No employment, (2) Farmer, (3) Labourer, (4) Trade/Business, (5) Government employee, (6) Other. 27% of the defendants stated that they had no employment, 24% stated others, 23% labourers, 15% trade or business, 6% are engaged in farming, and 4% are government employees.

### Monthly personal Income of defendants

There were 3 categories under this (1) Below Rs.25,000/-, (2) Rs.25,000/- to Rs.50,000/-,

(3) No income. Majority (69%) stated their monthly personal income to be below Rs. 25,000/-, 17% stated that they had no monthly income and 14% stated their income to be between Rs.25,000 and Rs.50,000. Nobody had income above Rs.50,000/-

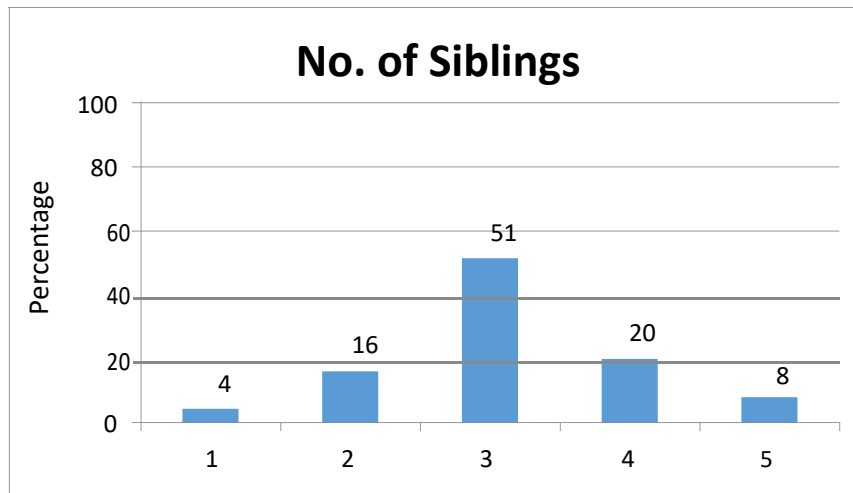
**Figure 7. Total Family Monthly Income**



Note: 1 Below Rs.25,000, 2 Rs.25,000 -50,000, 3 Rs.50,000 to 75,000

Figure 7 represents the total monthly income of the family. There were 3 categories under this (1) Below Rs. 25,000/-, (2) Rs.25,000 - to Rs.50,000/-, (3) Rs.50,000 – Rs.75,000/-. Majority of the defendants (75%) stated their family monthly income to be below Rs. 25,000/-, 23% stated this income to be Rs.25,000/- to Rs.50,000/- and 2% stated their income to be between the income range of Rs.50,000/- to Rs. 75,000/-. Nobody had family income exceeding Rs.75,000/-

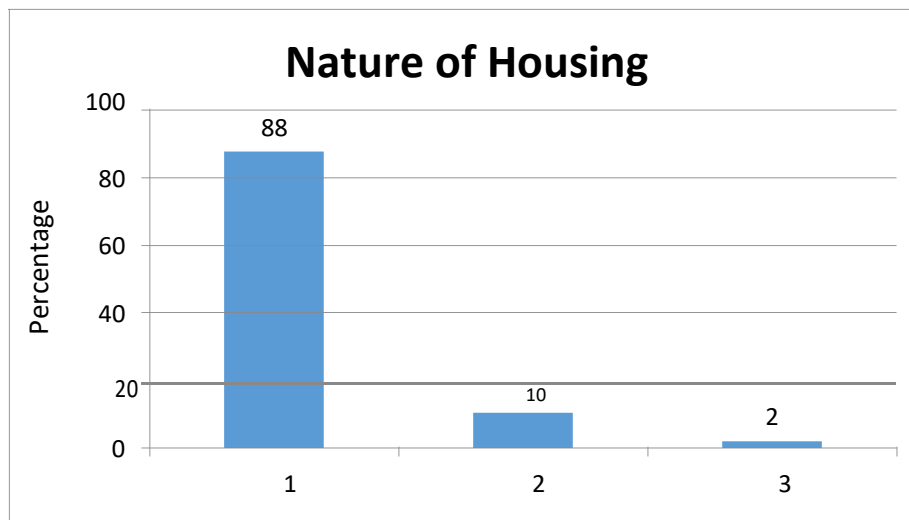
**Figure 8. No of Siblings the defendant has.**



Note: 1. None, 2. One, 3. 2-3, 4. 4-6, 5. More than 6

Figure 8 represents the number of siblings the defendant has. Five categories were identified (1) none, (2) one, (3) 2-3, (4) 4-6, (5) more than 6. Majority of 51% stated they have 2 to 3 siblings, 20% stated they have 4-6 siblings, 16% stated they have only one sibling, 8% stated to have more than 6 siblings and 4% stated they have no siblings.

**Figure 9. Housing status of the defendant**



Note: 1 Own house, 2 Rented, 3 Other

Figure 9 represents the housing status of the defendant. Attempt was made to identify the nature of housing. There were 3 categories under this (1) own house, (2) rented house, (3) other. Majority of the defendants (88%) stated that they lived in their own house, 10% stated that they lived in rented houses and 2% stated others.

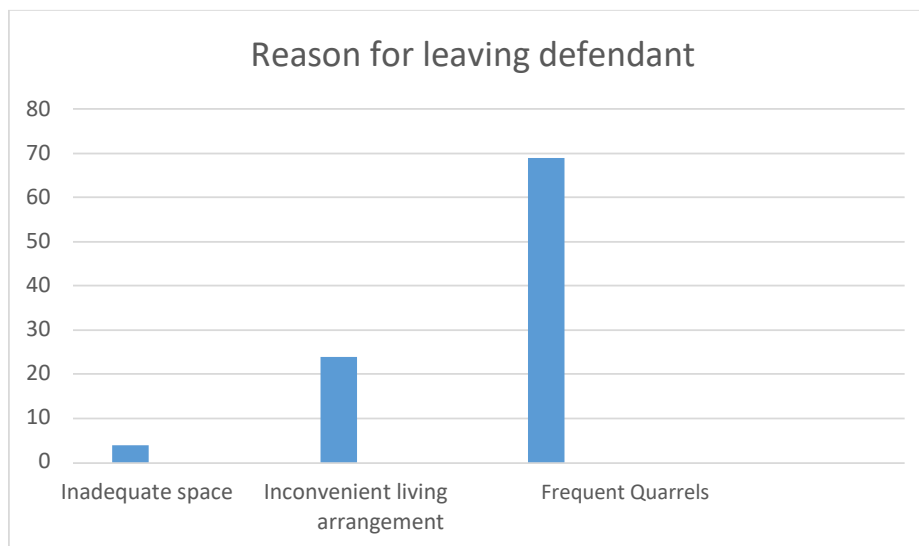
### **Petitioner living together with defendant before approaching tribunal**

Majority of the defendants (53%) stated that the petitioner indeed lived together with the defendant before approaching the tribunal. 47% stated that the petitioner did not live with the defendant before approaching the tribunal.

### **Continue to live together with the defendant**

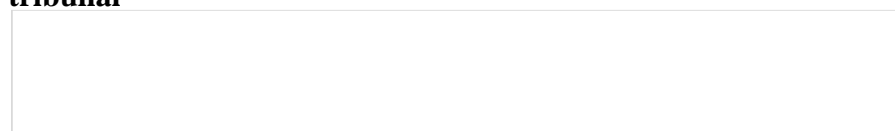
Of the 53% of petitioners who used to live with the defendant before approaching the tribunal only 37% have continued to live together with the defendant after approaching the tribunal whereas the majority of 63% has stated that the petitioners do not continue to live together with the defendant.

**Figure 10. Reasons for leaving the Defendant**



Four reasons were identified that led the petitioner to discontinue his living arrangement with the defendant and they are (1) inadequate space, (2) living arrangement is not convenient for him and (3) frequent quarrels with members of the family. 69% of the defendants felt that frequent quarrels was the reason for the petitioner leaving the house, 24% stated inconvenient living arrangement and 7% stated inadequate space for the petitioner leaving the defendant.

**Figure 11: Defendants' understanding about Petitioners' reason for approaching the tribunal**



## Defendants' thoughts on petitioners' reason to approach tribunal



Figure 11 looks into the reason that the defendant felt which led the petitioner to approach the tribunal. 47% felt frequent family quarrels as the reason, 35% felt inadequate care by the family, 20% felt neglect and 20% felt the petitioners wanting to get possession of the property.

### **Notice any peculiar behavior in the petitioner**

Majority of the defendants (58%) did not notice any peculiar behavior pattern with the petitioner whereas 42% noticed peculiar behavior pattern with the petitioner.

### **Defendants disagreeing on the petitioner approaching the tribunal.**

The defendants were asked if they felt that the petitioner shouldn't have taken up the issue to the tribunal. 55% of the defendants felt that the petitioner should not have taken up the issue with the tribunal whereas 45% did not feel anything special in regard to the petitioner taking up the issue with the tribunal.

### **Defendants' feeling about issue being taken to tribunal.**

Asked whether the defendants felt bad about the issue being taken to the tribunal 40% did not feel bad about the issue being taken to the tribunal.

### **Persuaded the petitioner not to approach the tribunal**

Only 10% of the defendants made attempts to persuade the petitioner not to approach the tribunal whereas majority of 90% of the defendants made no attempts to persuade the petitioner not to approach the tribunal.

### **Conciliation meeting at tribunal**

The defendants were asked if there was any conciliation meeting at the tribunal. 68% of the defendants stated that there was conciliation meeting at the tribunal and 32% stated that there was no conciliation meeting.

#### **Attended conciliation meeting**

Of the 64% of the defendants who had referrals for conciliation meeting, 61% attended the conciliation meeting and 39% did not attend the conciliation meeting.

#### **Acceptability of verdict**

54% of the defendants found the verdict to be acceptable and 46% did not find the verdict to be acceptable.

#### **Found tribunal to be just**

38% of defendants felt that the tribunal did not do justice to them, whereas the majority of 62% of the defendants felt that the tribunal has done justice to the defendants.

#### **Defendant going for Appeal**

Majority (84%) of the defendants have not gone for appeal against the verdict they have received from the tribunal, only 16% of defendants have gone for appeal against the verdict they had received from the tribunal.

#### **Amount for maintenance payable by self or shared**

To the question whether the amount fixed by the tribunal was payable by the defendant alone or if it was shared among the children/relatives, there is an equal division with 50% stating that the amount was payable by the defendant alone and the other 50% stating that the amount was payable jointly with others.

#### **Payment offer accepted**

As regards the payment offer that was accepted by the defendant, majority (53%) have accepted the lump sum payment offer and 47% has accepted payment by installments.

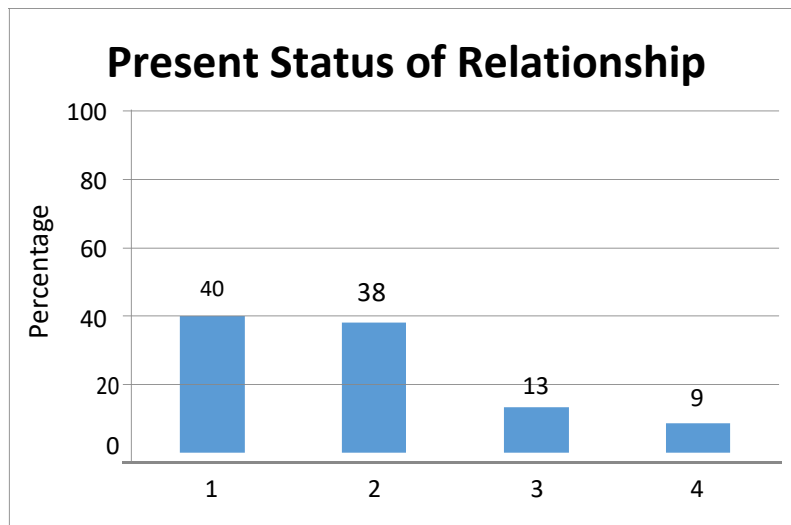
#### **Payment without default**

As regards making payments without default there is an equal distribution with 50% stating that they have been making payments without default and the other 50% has stated that they have defaulted in making the payment.

#### **Thoughts about the existing penal provision**

The defendants were asked how they felt about the existing penal provision of the Act. Majority (56%) of the defendants found the existing penal provisions to be fair and 44% found the existing penal provision to be unfair.

**Figure 12. Post-verdict relationship status with petitioner**



Note: 1 Relationship same, 2 Cordial, 3 Hostile, 4 Other

Figure 12 represents the assessment of the defendant's relationship with the petitioner after the verdict. 40% of the defendants felt the relationship was same as before the filing of the petition. 38% found the relationship with petitioner to have become cordial, 13% conveyed that the relationship turned more hostile than before post-verdict and 9% stated others. **Whether reconciliation with petitioner is desirable**

Majority of 56% have felt that reconciliation with the petitioner is desirable and 44% did not desire for reconciliation with the petitioner.

#### **Initiated steps for reconciliation**

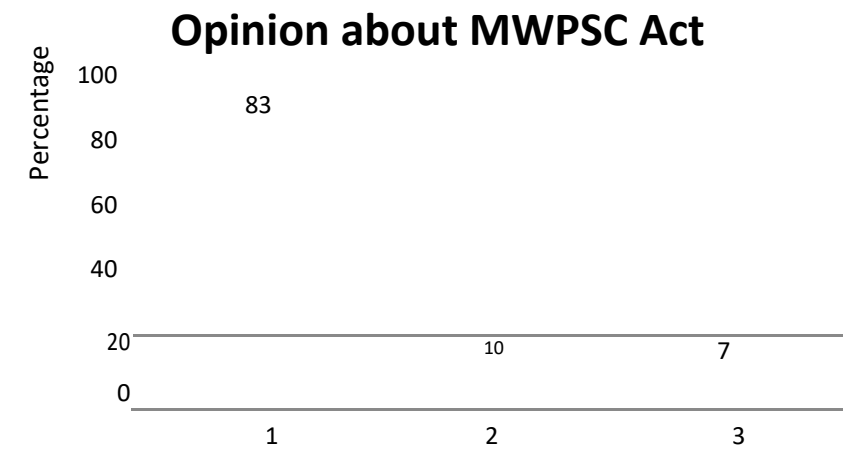
To the question if the defendants have initiated steps for reconciliation with the petitioner, 56% said yes. Of the 56% who desired reconciliation with the petitioner, 41% have taken steps or plan to take steps towards reconciliation whereas the majority of 59% have not initiated steps or planned to take steps for conciliation.

#### **Duty of children to take care of parents.**

On the opinion of defendants with regard to the duty of children in taking care of the parents, majority of 86% do think that it is the duty of the children to look after the parents in their old age; only 14% do not think it is the duty of the children to take care of the parents in their old age.

**Figure 13. Opinion about MWPSA**





Note: 1 Good, 2 Unnecessary, 3 Needs amendment

Figure 13 represents the defendants opinion about the Maintenance and Welfare of Parents and Senior Citizens Act. For this, three categories were identified (1) it is good in some way, (2) it is unnecessary as existing laws could handle the situation adequately, (3) It needs amendment. Majority of 83% do think the Act is good in some way, 10% found it to be unnecessary as existing laws could handle the situation adequately and 7% stated that the Act needs amendment.

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## Chapter 9

# Implementing Agents of MWPSA Act

The task of implementation of Maintenance and Welfare of Parents and Senior Citizens Act falls mainly on the Maintenance Tribunal who is the Revenue Divisional Officer. In this study the functional perspectives of the Revenue Divisional Officer, Appellate Tribunal and Conciliation Officer have been looked into in order to understand their tasks and problems in implementing the Maintenance and Welfare of Parents and Senior Citizens Act.

### Maintenance Tribunal

This section will look into the perspectives of Revenue Divisional Officers (RDOs) in terms of their duties and the different facets involved in the implementation of the MWPSA Act.

The revenue divisional officer works in cohort with the technical assistant and clerk which is the basic composition of every Revenue Divisional Office with some variation in the 21 RD Offices.

A revenue divisional officer may be an IAS Officer or officer who has been promoted to the position. The following table represents the time period for which an RDO has been in charge of the Revenue Division Office. 11 RDOs stated that they have been in charge of the particular RDO for less than a year, 8 RDOs have been in charge of the RDOs for a year and only 2 RDOs have been in charge for over 2 years.

**Table 1: RDOs' Time frame of being in charge of Tribunal's work**

Time Period	Less than one year	One year	Two year
No of RDO	11	8	2

### Working as Maintenance Tribunal

Not all the revenue divisional officers who are in charge of the Maintenance Tribunal have worked as revenue divisional officers prior to taking charge in their respective RDOs.

**Table 2: Time spent as RDO**

Period of working as RDO	Less than one year	One year	Two years	Three or more years	This is the first time
No of RDOs	5	6	2	2	6

The table shows that only 2 RDOs spent 3 or more years as RDOs. There are 5 RDOs who have been on the job for only less than one year.

Table 3 shows the number of applications received and settled in the different RDOs by the end of March 2017

**Table 3. Number of applications received and settled**

<b>RDO</b>	<b>Total number of Applications received</b>	<b>Total number of cases settled</b>
<b>Adoor</b>	<b>266</b>	<b>225</b>
<b>Alapuzha</b>	<b>802</b>	<b>749</b>
<b>Chengannur</b>	<b>411</b>	<b>380</b>
<b>Devikulam</b>	<b>150</b>	<b>125</b>
<b>Fort Kochi</b>	<b>949</b>	<b>862</b>
<b>Idukki</b>	<b>289</b>	<b>245</b>
<b>Kanjangad</b>	<b>210</b>	<b>147</b>
<b>Kollam</b>	<b>684</b>	<b>632</b>
<b>Kottayam</b>	<b>376</b>	<b>251</b>
<b>Kozhikode</b>	<b>374</b>	<b>335</b>
<b>Muvattupuzha</b>	<b>526</b>	<b>390</b>
<b>Ottappalam</b>	<b>301</b>	<b>216</b>
<b>Pala</b>	<b>268</b>	<b>242</b>
<b>Palakkad</b>	<b>377</b>	<b>226</b>
<b>Perinthalmanna</b>	<b>159</b>	<b>142</b>
<b>Thalaserry</b>	<b>235</b>	<b>217</b>
<b>Thiruvalla</b>	<b>373</b>	<b>276</b>
<b>Thiruvananthapuram</b>	<b>1826</b>	<b>1297</b>
<b>Thrissur</b>	<b>739</b>	<b>623</b>
<b>Tirur</b>	<b>185</b>	<b>157</b>
<b>Wayanad</b>	<b>393</b>	<b>328</b>
<b>Total</b>	<b>9893</b>	<b>8065</b>

Table No. 4 indicates the number of cases handled by the different RDOs in their career,

**Table 4. Number of cases handled by the RDOs in their career (Approximate)**

<b>RDO</b>	<b>Total number of cases handled by the RDO</b>
<b>Adoor</b>	<b>325</b>
<b>Alapuzha</b>	<b>309</b>
<b>Chengannur</b>	<b>150</b>
<b>Devikulam</b>	<b>50</b>
<b>Fort Kochi</b>	<b>80</b>
<b>Idukki</b>	<b>80</b>
<b>Kanjangad</b>	<b>80</b>
<b>Kollam</b>	<b>276</b>
<b>Kottayam</b>	<b>200</b>
<b>Kozhikode</b>	<b>200</b>
<b>Muvattupuzha</b>	<b>150</b>
<b>Ottaplam</b>	<b>120</b>
<b>Pala</b>	<b>100</b>
<b>Palakkad</b>	<b>100</b>
<b>Perinthalmanna</b>	<b>100</b>
<b>Thalaserry</b>	<b>50</b>
<b>Thiruvalla</b>	<b>60</b>
<b>Thiruvananthapuram</b>	<b>300</b>
<b>Thrissur</b>	<b>200</b>
<b>Tirur</b>	<b>20</b>
<b>Wayanad</b>	<b>144</b>
<b>Total</b>	<b>3094</b>

The above table represents the total number of cases handled by an RDO. Each officer provided an approximate estimate of the number of cases he/she has handled throughout his/her service. The RDO of Adoor has handled a remarkable 325 cases under the Act.

**Table 5: No of cases handled in a week**

<b>No of cases</b>	<b>Under 10</b>	<b>11 – 20</b>	<b>More than 20</b>
<b>No of RDOs</b>	<b>6</b>	<b>14</b>	<b>1</b>

The above table represents the average number of cases handled by RDOs in a week. Most of the RDOs go through 11 to 20 cases in a week and only the RDO of Thiruvananthapuram stated that he goes through about 60 cases in a week which is the highest number of cases to be dealt by an RDO in a week's time.

**Table 6: Average time taken to dispose of a case**

<b>Time taken</b>	<b>One month</b>	<b>Two months</b>	<b>Three months</b>
<b>No of RDOs</b>	<b>2</b>	<b>4</b>	<b>15</b>

The above table represents the average time taken by an RDO to dispose of a case. The MWPSCA states that when a petition is filed it needs to be disposed off within a period of 90 days. During the process of our data collection it was found that RDOs take anywhere from a month to three months' time to dispose off a case. From the table above it can be seen that most of the RDOs have stated that they require 3 months to dispose off a cases which is the prescribed limit. 4 RDOs stated that they require a period of only 2 months and two have mentioned one month. The RDOs stated that at times a case may take more than 3 months to be disposed off as it requires further investigation from the part of the village officer or station house officer.

**Table 7: Time spent for tribunal's work in a week**

<b>Time spend in a week</b>	<b>One day a week</b>	<b>Two days a week</b>	<b>Three days a week</b>
<b>No of RDOs</b>	<b>16</b>	<b>4</b>	<b>1</b>

The maintenance tribunal office that is headed by the revenue divisional officer is in charge of facilitating the problems of the elderly under the MWPSCA but the task of the RDOs is not limited to handling the MWPSCA cases alone, since they are also the sub divisional magistrates and as such they have duties specifically assigned to that office. Besides these, they are also called into special duties due to which the time spend on the petitions of

MWPSCA is limited to a day or two and at the most three days of a week. Of the two or three days, only one day is spent for the hearing, the second day for conciliation and the third day for giving verdict. Majority of the RDOs have mentioned one day a week for this which is mostly the day assigned for hearing. Every RDO has a particular day assigned for the hearing of the petition. The RDOs who identified two and three days, spent each of these days for either hearing, conciliation or verdict.

**Table 8: No. of cases in each category handled by each NGO in the present office**

<b>RDO</b>	<b>Maintenance petition</b>	<b>Property petition</b>
<b>Adoor</b>	<b>40</b>	<b>160</b>
<b>Alapuzha</b>	<b>150</b>	<b>100</b>
<b>Chengannur</b>	<b>60</b>	<b>90</b>
<b>Devikulam</b>	<b>45</b>	<b>5</b>
<b>Fort Kochi</b>	<b>40</b>	<b>60</b>
<b>Idukki</b>	<b>60</b>	<b>20</b>
<b>Kanagad</b>	<b>30</b>	<b>70</b>
<b>Kollam</b>	<b>150</b>	<b>126</b>
<b>Kottayam</b>	<b>100</b>	<b>100</b>
<b>Kozhikode</b>	<b>80</b>	<b>120</b>
<b>Muvattupuzha</b>	<b>80</b>	<b>70</b>
<b>Ottapalam</b>	<b>160</b>	<b>5</b>
<b>Pala</b>	<b>45</b>	<b>55</b>
<b>Palakkad</b>	<b>50</b>	<b>70</b>
<b>Perinthalmanna</b>	<b>50</b>	<b>50</b>
<b>Thalaserry</b>	<b>25</b>	<b>25</b>
<b>Thiruvalla</b>	<b>5</b>	<b>45</b>
<b>Thiruvananthapuram</b>	<b>150</b>	<b>150</b>
<b>Thrissur</b>	<b>80</b>	<b>120</b>
<b>Tirur</b>	<b>40</b>	<b>60</b>
<b>Wayanad</b>	<b>70</b>	<b>74</b>
<b>Total</b>	<b>1510</b>	<b>1575</b>

The MWPSC Act takes care of both maintenance and property petitions and the above table looks into the number of maintenance and property petitions that are filed under each RD Office. Even though a petition has to be either related to maintenance or property there are many instances when an elderly files a petition for both maintenance and property. The precise number for such petition could not be obtained as the offices had no records for it, only the RDO of Ottapalam confirmed that he had received about 30 such petitions. Most of the petitions filed under the MWPSC Act are property petitions. Maintenance petitions are considerably less when compared to property petitions for majority of the RDOs. Ottapalam stood out with the most number of maintenance petitions (160) in comparison to the property petitions. Adoor has the largest number (360) of property petitions and Devikulam has the

lowest number of property petitions (5). The remaining RDOs have equal number of both petitions and a few have slightly more number of property petitions.

### **Staff Composition**

The staff composition of each RD Office includes one Technical Assistant, one Clerk and a few conciliation officers. Of this, the technical assistant and clerk are full time employees and the Conciliation Officers are part-time. They (conciliation officers) are only required to come to the office during the hearing or on the day assigned for conciliation. The clerk is in charge of filing the petitions and the technical assistant prepares papers for the hearing. Both share the duty of writing and sending the order to the petitioners and defendants and also the reporting of each case. The Thiruvalla RDO stated that the technical assistant is in charge of the field work as well. Alappuzha and Palakkad RDOs have stated that the present staff composition is not enough compared to the work that needs to be done. They suggested that at least one more post each be created which will help in providing prompt action and relief to the petitioners. Another suggestion is that there needs to be another staff member in the office that can do routine follow-up with the petitioners and defendants to ensure that the verdict is being carried out promptly and without fail, This will benefit the elderly to ensure that they are taken care of well.

### **Conciliation officers**

Conciliation officers are in charge of negotiating and mediating between the petitioner and the defendant. A case may be settled through counseling if both parties are willing for it. Every tribunal has conciliation officers who are mostly retired counselors and other government employees. The conciliation officers come to the tribunal only during the hearing process.

**Table 9: Number of Conciliation Officers**

<b>No of conciliation officers</b>	<b>Under 5</b>	<b>6 – 10</b>	<b>11 – 15</b>
<b>No of RDOs</b>	<b>14</b>	<b>6</b>	<b>1</b>

Every RDO has conciliation officers and the above table shows the number of conciliation officers in the RD Offices. The RD Offices with under 5 conciliation officers have a minimum of 3 conciliation officers. Most of the RDOs have stated that they have under 5 conciliation officers in the tribunal. Ottapalam RDO is an exception with 16 conciliation officers. The percentage of cases going for conciliation is uniform in all the RD Offices with every tribunal referring cases to the conciliation officer. Only the cases where either party is not interested in conciliation or doesn't prefer for a negotiation are not referred for conciliation. An exception is seen in the case of Thiruvalla RD Office where the percentage of cases being referred to the conciliation officer is 5% to 7%. The acceptance rate of conciliation officer's decision is below 50% in every RD Office. Here also since Thiruvalla has the least referral to conciliation officers the percentage of acceptance is 4%. Palakkad Tribunal stands out in both scenarios as every case under the act is referred to the conciliation officer but they have stated that there has been zero acceptance of conciliation decision.

### **Implementation of verdict**

The task of the revenue divisional officer is to review the petition and hear from the petitioners and the defendants after which the RDO will reach a verdict. The duty of the RDO ends here and there is no follow up about the implementation from the maintenance tribunal's side. Once a verdict has been delivered for a case, the petitioners are advised to approach the tribunal if they are faced with any further complaints, issues or noncompliance from the defendants. In the case of property issues, village officers are asked to report back to the RDO. There are no strict mechanisms in place to oversee the implementation of the verdict and different RDOs have different mechanisms. The police, the village officers and the District Social Justice Officer also play a role in this. All the RDOs have reported that they authorize the station house officer in the police station and village officers in some special cases to oversee and ensure that the verdict is carried out. Kasargod RDO has reported that he entrusts the social justice officer to ensure that the verdicts are carried out. Essentially each RDO has stated that there are no mechanisms in place to oversee the verdict implementation from the side of the maintenance tribunal as they are under-staffed due to their staff composition for the maintenance act being restricted to a technical assistant and a clerk who are in charge of preparing the petition and preparing for the hearing. Overall at present a petitioner is asked to approach the tribunal only in case of noncompliance from the side of the defendant.

### **Non Implementation being reported to RDO**

The number of cases of non-implementation coming to the attention of the RDO is represented by the following table:

**Table 10 : Non Implementation being reported to RDO**

<b>% of Cases not implemented</b>	<b>Less than 10%</b>	<b>10 - 20%</b>	<b>21 – 30%</b>	<b>31 – 40%</b>	<b>Don't know</b>
<b>No of RDOs</b>	<b>7</b>	<b>7</b>	<b>5</b>	<b>1</b>	<b>1</b>

In the instances of non-implementation the following procedures are put into action:

- Notice is send to the defendants and if they do not accept the notice and refuse to comply, arrest warrants are issued in their names.
- Defendants are made to pay the fine and in some cases the officials do resort to imprisonment of the defendant for noncompliance.
- In property related cases the deed of the property is cancelled and in such cases the village officers are asked to report back to the maintenance tribunal.
- The same process of sending a notice and the process of the hearing is carried out, all within 90 days. If the defendants are not able to establish and validate their reason for their noncompliance further action will be taken against them and if they are able to establish a valid reason changes will be made to the verdict in such a way that it doesn't affect the life and livelihood of the petitioner.

### **Non implementation needing subsequent action by the Tribunal**

**Table 11: The percentage of cases needing subsequent action by the maintenance tribunal is stated below:**

<b>% of Cases</b>	<b>Less than 10%</b>	<b>10% - 20%</b>	<b>20% - 30 %</b>	<b>30% - 40%</b>	<b>Don't know</b>
<b>No of RDOs</b>	<b>10</b>	<b>4</b>	<b>4</b>	<b>2</b>	<b>1</b>



10 RDOs have stated that less than 10% petitioners approach the tribunal demanding subsequent action against the defendants in the case of noncompliance. Even though there are a number of cases of non compliance of the verdict by the defendant coming to the attention of the RDO, the petitioners are often reluctant to pursue further action against the defendants as they do not want to go through the process of it all over again. The petitioners have stated that they approach the RDO and file the petition under the MWPSA Act only as a last resort and when the implementation of the verdict fails they lose hope and cope up with the difficulties that they were faced with.

### **Penalty for Non compliance**

As per the provision of the maintenance and welfare of parents and senior citizens act the state government can impose a penal provision or punishment of 3 months' imprisonment and a fine of up to Rs. 5000/- or both in the case of the abandonment of senior citizens.

**Table 12: Assessment of penalty**

<b>Assessment of penalty</b>	<b>Adequate</b>	<b>Inadequate</b>
<b>No of RDOs</b>	<b>4</b>	<b>17</b>

From the above table it is evident that out of the 21 RDOs, 17 felt that the present punishment of 3 months imprisonment and fine of Rs.5000/- to be inadequate; they suggested that the period of imprisonment be increased from 3 to at least 6 months and the amount of Rs.5000/- be increased to Rs.10, 000/- and more. 4 RDOs found the punishment to be adequate and stated that both the petitioners and defendants who approach the tribunal are from economically weaker sections and hence they would not be able to afford a higher amount as penalty nor would it be advisable to increase the period of imprisonment as it will only adversely affect the petitioner and defendant by increasing the hostility between them. Many of the petitioners who approach the tribunal complained that they were physically abused to the extent that they were beaten by the defendants and mentally tortured by denying them the basic food, clothing and shelter. In such cases they felt that harsher terms of punishment should be meted out to the defendants.

**Table 13: Default in payment**

% of Default	Less than 10%	10%-20%	21%-30%	31%-40%	41 - 50%
No of RDOs	5	5	7	2	2

Table 13 gives details of default in payment of the maintenance amount reported by the RDOs. 11 RDOs reported that they have found more than 20% cases of default and two RDOs reported as much as 40 to 50 percent default in payment of the maintenance amount to the petitioner.

**Table 14: No. of cases withdrawn**

No of cases	Less than 10	10-20	21-30	31-40
No of RDOs	8	5	3	5

Table 14 gives details of cases withdrawn by the petitioners after filing petitions. While 8 RDOs reported withdrawal of less than 10 cases, another 5 RDOs reported 31-40% cases

**Table 15: No cases that have gone for appeal**

No of cases	None	Less than 10	10 to 20	21 and above	Don't know
No of RDOs	2	5	4	2	8

### Major areas of complaint

The major areas of complaint reported by the maintenance tribunals are denial of maintenance, property disputes, need for property deed cancellation, mental abuse, physical torture, abandonment, neglect and issues with daughter in law. Out of the mentioned categories the RDOs highlighted that they are frequented by petitioners on property issues more than anything else. In cases of maintenance issues and property issues the petitioners complain about being mentally and physically abused by the defendant and in cases where such abuses are reported the petitioners are usually looking for protection from the abuse and the abuser rather than maintenance or protection but in order to be able to approach the tribunal they state their complaint under either denial of maintenance or property disputes. Interestingly in many cases of abuse the petitioners state the daughter in law as the culprit and they refuse the involvement of their own children as they don't want to put their children in harm's way. Even though this is an Act to protect the welfare and wellbeing of the elderly, many at times the petitioners take advantage of the Act to conceal their own mistakes and wrong doing. For instance, there has been cases where the elderly have tried to physically

and sexually abuse the daughter in law and when this leads to altercations between the parent and the child, the parent has resorted to filing petitions under the maintenance act to revoke the children's rights to the property and or to say that they were denying him or her maintenance withdrawn.

**Table 16: Age of the petitioner**

<b>Age Group</b>	<b>60-69</b>	<b>70-79</b>	<b>80 plus</b>
<b>No of RDOs</b>	<b>10</b>	<b>11</b>	<b>0</b>

The maintenance tribunal identified the age group of 70 – 79 to be the highest age group filing the petition under the MWPSA, the age group of 60 – 69 is also identified as a prominent age group. The age group of 70 – 79 is identified mostly due to the vulnerability that they are faced with at that age due to the deteriorating health and growing dependency which make them vulnerable to atrocities at the hands of kin or caretaker. In the case of the present RDOs, there were no applicants who are aged 80 and above.

#### **The processes involved from filing petition to verdict**

The standard procedure followed by all the RDOs is as follows: A petitioner can approach the tribunal to file a petition under the MWPSA. The petition is duly filed by the clerk and later a notice is sent to both the parties asking them to be present for the hearing. The technical assistant prepares for the hearing and briefs the RDO. After the notice, if the defendant refuses to attend the meeting after further requests, an arrest warrant is issued in his/her name and he/she is forced to make an appearance for the hearing. In the due process of the hearing the RDO may or may not refer parties to the conciliation officer for mediating and negotiating the issue between the petitioner and the defendant. If the matter is not settled by the conciliation officer it is again deferred back to the RDO for hearing and a verdict is given. In the case of property cases the village officer is asked to report on the matter and after that a verdict is reached. The hearing and conciliation process all take place during a course of 90 days. After the verdict the role of the maintenance tribunal ends. In the case of non-implementation or noncompliance the petitioner will have to either report back to the tribunal or if he/she is unsatisfied with the verdict the petitioner or the defendant can go for appeal and challenge the verdict.

After the filing of the petition some RDOs conduct a local enquiry through the station house officer who reports back to the RDO. On the basis of the report adequate action is taken by

the RDO during the hearing process. Now some RDOs are attempting to have follow-ups to see if the verdict is being implemented.

**Table 17: Sufficient time for hearing the elderly**

Adequate time	Yes	No
No of RDOs	12	9

The majority of RDOs have stated that they do get sufficient time to hear the problems of the elderly and that they do not proceed to take action or give a verdict without hearing from the elderly who register their cases. On an average every RDO has one day of the week designated especially for dealing with the petitions, hearing and conciliation. The obstacle that the RDO is faced with in regard to MWPSCA is the other duties they have as RDO and whenever there is a crisis or special situation it will demand the RDOs' attention. For instance during the flood of August 2018 and the Sabarimala issue, RDOs were unavailable for the tribunal's work as they were assigned different duties for these two special circumstances. By doing so the time they are able to spend for MWPSCA is cut short. In such cases the petitions get delayed and are not able to receive a verdict within the prescribed 90days.

#### **Problems faced while handling a case**

The RDOs have stated the following as the problems they are faced with while filing a case:

**Petitioners and defendants being represented by lawyers:** The involvement of lawyers is mostly by the petitioners as they approach the lawyer before approaching the tribunal. Mostly lawyers are the ones who direct the petitioners to the RDO and the petitioners with the help of the lawyers prepares the complaint beforehand and present it to the clerk. During the hearing process also the presence of lawyers is distracting and misleading, as the Act clearly states that the involvement of lawyers is strictly prohibited but still the petitioners and in some cases the defendants also insist on having them there during the hearing to represent them and to talk on their behalf.

**Refusal to attend the meeting:** The defendants many a time refuse to attend the hearing process and this delays the process of giving a verdict. Most of the time they refuse to accept the notice and hence do not appear before the tribunal for the hearing and so the case is postponed to a further date. After a no show again arrest warrant is issued in their name.

**Lack of genuine cases:** For a state like Kerala due to the high literacy rate and awareness among the people many petitioners as well as defendants take advantage of the

MWPSCA. Majority of them approach the tribunal with property cases and civil disputes which defeat the purpose of the Act. Maintenance is the priority under this Act and cancellation of property deed is only a provision to help improve the welfare of the elderly but rather the petitioners and defendants approach the tribunal with property disputes as an easy method to settle civil disputes without the hassles of going to court of law and spending money. There needs to be a stricter provision to prevent both parties from taking advantage of the provisions of the Act.

### **90 days limit for disposal**

The tribunals are able to dispose off cases within the prescribed 90 days when they don't face any delay from the side of the defendant and when the RDO isn't assigned with other duties. At present these two are identified as the major reason for delay in disposing off a petition within 90 days of it being filed. When a defendant doesn't appear for the meeting, that particular case is further delayed by postponing it to another date, The delay from the officials' side comes completely unplanned with new duties such as flood duty, by-election, Sabrimala duty etc Such unexpected tasks do delay hearing process and the number of pending cases increases.

### **Suo Motu Cases**

Suo Motu cases under this Act are filed by the officials themselves when neglect and abuse of an elderly is found. 3 out of the 21 RDOs stated that they have not registered any suo motu cases after taking charge of that particular RD Office whereas the rest of the 18 RDOs stated that they have filed at least one case under the suomotu.

### **Case from Thiruvalla RDO**

An old aged man in his late 70s was always seen in a tea shop near the RD Office; he always wore the same clothes and never went anywhere. On further enquiry by the technical assistant of the RDO it was found that he was survived by three sibling who did not want anything to do with him and hence he was homeless. The owner of the tea shop let him sleep in his shop and provided him food. As soon as the enquiry was made by the technical assistant the man was admitted to a hospital for medical checkup and after receiving sufficient treatment he was shifted to a government run old age home by the social justice officer and later it was found out that he had passed away due to natural causes.

### **Case from Palakkad RDO**

It was a case that was highlighted by the media, An old aged women was abandoned and neglected by her children and their spouses. She was found in a rundown house with a broken

spinal cord without food or water for months. Since her children had refused to take care of her the RDO instructed that her property be taken back under reverse mortgage and she be taken care by using this money. As of now she has been shifted to an old age home where she is being looked after.

### **Parameters taken into account: Amount for maintenance**

The amount for maintenance is decided on the basis of three factors (1) the financial situation of the defendant (2) if the petitioner is a recipient of any service pension or has any other income earning sources (3) assessment of property. While assessing the financial situation of the defendant the household income of the defendant's family is taken into account. If the petitioner is a recipient of any service pension then the amount for maintenance is decided on the basis of that. Lastly property assessment is done to understand the economic background of either parties but this isn't very reliable as both parties do not fully disclose the details of the property that they own. In some petitions with regard to maintenance during the hearing process the amount is not decided but rather the children fully assure the parents that they shall take care of them without having to pay them a sum every month. In these cases the amount is not prescribed. Another observation is that in every maintenance petition the parents are not looking to be paid but have rather approached the tribunal to get relief from the physical and or mental torture that they are

subjected to at the hands of their kin. In such cases even though it is a maintenance petition they do say that they do not need any maintenance.

### **Restoration of property**

In regard to the restoration of property there are two problems that prevent the restoration of the property. The restoration of property is not possible in the following cases:

- (1) If the property was transferred to the defendant before 2007 restoration is not possible as the act had only come into effect after 2007 and so only the properties that have been transferred after 2007 can be transferred back to the elderly.
- (2) If the property has been sold off to a third party, restoration would not be possible.

### **Duty of the tribunal after the verdict**

The duty of the tribunal ends with the verdict as there is no particular provision to do follow up. Currently most of the RDOs have technical assistants doing follow up to ensure that the verdict is implemented and certain RDOs have entrusted this task to the station house officer, social justice officer and the village officer. As soon as a verdict is given the station house officer and/or the village officer is notified and asked to do a follow up in the matter. The village officers mostly are contacted in cases related to property disputes where they are asked

to oversee that the property restoration takes place without fail. Due to the lack of time and limited staff currently the provision to do follow up with verdict implementation is limited for all the RDOs. The RDOs suggest that a post should be created specifically to do follow up of the verdicts. There aren't any proper set of mechanisms in place to ensure that a verdict is promptly implemented. In case of non-implementation the station house officer or the village officer is asked to report back to the RDO and necessary action is taken from then on.

### **Role of Police**

Police play the role of referring the elderly to the tribunal in their situation of crisis and the other role they play is that of the station house officer who is in charge to do follow up and enquiries on behalf of the RDO. When a petition is filed sometimes evidence is sought to ensure the authenticity of the case and in such circumstances the station house officer does the required enquiry. In the initial stage when a petition is filed the help of the police is sought if the defendant refuses to attend the hearing. In such situation a warrant is issued in the name of the defendant and this warrant is carried out by the police. Thus the role of the

police is required at three stages: initially/to let the elderly know of the Act when they approach police stations, then to do follow up and investigate and lastly to help the defendants comply with the hearing and proceedings.

The police cooperate with the tribunal by providing assistance but since they have their own cases they are not able to dedicate much time to the MWPSA petitions as priority is given to the cases that are registered at the police station. To avoid this a proper training programme should be given to the police officers to make them aware of the different provisions of the Act and the role they must play for the implementation of the Act.

### **Appeal**

If a petitioner or defendant is unsatisfied with the verdict he/she is recommended to go for appeal. The petitioner is required to approach the district collector and the defendant is required to approach the high court in the matter. The RDOs have stated that the petitioners are most likely to go for appeal than the defendant. Majority of the RDOs have stated that around 35% of the petitioners go for appeal to a higher authority whereas less than 15% of defendants approach a higher authority for appeal. The process involved in the appeal is that either the petitioner or the defendant can approach the concerned higher authority with a copy of the verdict along with the complaint and file an appeal.

### **When Petitioner and Defendant are both senior citizens**

When a senior citizen who is in his/her late 70s and early 80s files a petition under the MWPSA the defendant in the case is more likely to be a senior citizen himself/herself. In

such a petition no differentiation is made on the basis of age. The defendant is not given any special consideration. The financial background of the petitioner and defendant is checked thoroughly to see if they are either income earner at present or if they are recipient of any pension. As long as they have a source of income the only concerning fact is that it is the responsibility of the children to take care of the parents and the case is considered in terms of that.

### **Assessment and suggestion of MWPSCA**

Even though the maintenance officers admit that the Act is good and favorable for the senior citizens, most have highlighted that the safeguards of the Act which are intended to be utilized for the welfare of senior citizens and parents are found to be misused by the children to settle property disputes amongst them. This is in the wake of increasing number of cases which the tribunal had deemed as not genuine. Most of the cases in such a situation are primarily focused on ensuring maintenance to a senior citizen or parent. The RDOs state that many petitioners and defendants prefer to approach the tribunal on property cases as it is free of cost and a verdict can be reached without much delay. Lawyers are the main reason for this as many clients approach the lawyers who prepare the complaints for the client and they in turn approach the tribunal with the property related and the tribunal prefers to give

### **Suggestions**

- The penal provision of the Act should be made more stringent by increasing the amount of fine and term of imprisonment because only with harsher and more stringent punishment can one ensure the cooperation and compliance of the defendant. Another suggestion is that the maximum amount for maintenance should be reassessed. Instead of stating Rs.10,000/- as the maximum for maintenance it should be determined on the basis of income of the defendant, which will be fair for both the petitioner and defendant.
- One of the RDOs made the following assessment: In many of the cases the defendants argue that the petitioner is mentally unstable. From assessing a number of cases it can't be denied that with aging some petitioners do display erratic and mentally unstable behavior. In such cases the tribunal can't make a proper assessment from the framework of the Act and so a provision should be included in the Act that will help facilitate the needs of such petitioners and defendants properly.
- A general awareness campaign needs to be carried out to sensitize the general public about the Act and its provisions.



- Sensitization of the police is essential. With better awareness and understanding they can be made more sensitive and objective in approach when a senior citizen or parent approaches them.
- As the provision for shifting to an old age home is part of the provision of the Act, there should be sufficient number of old age homes to facilitate the petitioners who request to be shifted.
- In cases of non implementation of the verdict of the Tribunal, an easier method of approach should be evolved to help the petitioners easily to directly inform the tribunal of non-implementation and compliance from the side of the defendant without having to go to the tribunal. Many petitioners have complained that their physical limitation and distress prevent them again from making the travel. So a more efficient method should be identified where the petitioner can approach the tribunal without having to make the travel. The deputizing of someone else to represent them doesn't work to the benefit of the petitioner as often the petitioner is not made aware of the progress of their petition by his dispute.
- There should be full-time counseling centres to negotiate and mediate between the petitioner and defendant. As soon as a case is filed the parties should be directed to attend the counseling session and if an amicable decision is made the case can be disposed off; if not it can be directed to the tribunal.
- Identify old age homes and day care centres along with health centres in each Panchayat and give full responsibility to the sub divisional magistrate for accommodating a petitioner in need
- A reasonable amount should be set apart as remuneration for the conciliation officers; this will motivate them to do their job better.
- Creation of a stake holders' committee which includes youth, ward members, counselors, police, teachers and the elderly.
- A separate tribunal for the elderly in every Taluk. The RDO who made this suggestion considered the work related to the MWPSA as extra work rather than a duty for the RDO.
- Help petitioners from having to pay bribery and hefty fees to lawyers for the preparation of the complaint.

### **Limitation**

**Language problem:** The Revenue divisional officers are either sub collectors or officers having been promoted to the post. Many of the RDOs who are sub collectors are not natives of the

state and hence are not well versed in the regional language and this leads to communication problems. RDOs who are non native officers have stated that due to the language barrier some make use of translators which is very time-consuming which in turn limits the number of cases that can be heard per sitting. Some sub collectors do their business without translators and proceed with the hearing. In such situations no meaningful communication takes place between the tribunal and either party which affects the verdict

**Time bound participation:** Efficient and time bound action should be ensured from the village officer in reporting wherever their involvement is required in order to be able to dispose off a case within 90 days.

**Awareness at the official level:** At times there is lack of awareness about the MWPSA among the officials who are supposed to implement the Act and there is lack of awareness about the exact role of the officials involved in the MWPSA

**Lack of time:** The RDO has different duties apart from the implementation of MWPSA and with the large number of cases that are registered in the RD Offices, the Act demands more time than a day every week. The hearing may not take place every week due to other unprecedented activities that demand the urgent attention of the RDO. This will lead to delay in the disposal of cases within 90 days.

**Demarcation between genuine and non genuine cases:** A lot of petitioners approach the tribunal with non genuine cases. Mostly the petitioner might be forced to present the petition due to a sibling rivalry or for an easier settlement of the property issue with either parent or children or between children, so this proves to be a hindrance to the genuine petitioners who come seeking justice adversely.

**Staff and infrastructural improvements:** The present staff composition of the technical assistant and clerk can be bettered with more number of staff as the work load of the technical assistant can be shared to improve the functioning of the RDO in terms of implementation of the MWPSA. The infrastructural improvement requires that the RDOs are able to facilitate the elderly coming to seek assistance from the RDO by having a larger waiting area and refreshments that will be available to the petitioners in order to make the wait during the filing or hearing process less stress free.

Delay in disposing off a petition is sometimes due to the migration of the defendants to foreign countries, as some of the defendants may be NRIs. In such cases the reach of the tribunal is very limited and the present penal provisions seem to be ineffective.

Even though cancellation of property rights is part of the provision of the Act the properties that were transferred prior to 2007 cannot be considered under the Act. This is a major set back for the senior citizens and parents.

Documentation work of the cases needs to be done more efficiently.

Advocate interference should be eliminated at all cost for which the beneficiaries of the Act need to be made aware that the participation of lawyer is not advised nor required. The participation of advocates hinders with the hearing process.

Rehabilitation of the petitioner according to the needs: The provision of referring petitioner to old age homes if required or desired by them is being done. But most of the times the old age homes are ill-equipped to meet the needs of the elderly as they mostly provide just rehabilitation. There needs to be different kinds of old age homes catering to the different needs of the elderly. Most of the times the petitioner is shifted to an old age home of the government or working with the tribunal irrespective of the needs of the petitioner and this can do more harm than good to the petitioner.

There is a lack of geriatric elderly institutions as some need more than an old age home.

Follow-up mechanisms need to be devised under the Act itself. As of now there is limited scope for follow-up with the present staff composition and the work load that they have. There should be a uniform method to ensure follow up and implementation..

Frequent transfer of the RDOs affects the implementation of the MWPSA.

## **Role of Social Justice Officers**

The Social Justice Officer is the Maintenance Officer under the Act. He/she can sponsor the issue of a petitioner and help him/her in getting it processed. However, these officers do not have a role in the hearing or disposal of the cases under the MWPSA but their duties fall into the rehabilitation of the petitioners who are recommended to be shifted to old age homes under the said Act and the role of social justice officers is crucial in cases where the state takes over the care of an elderly person who has been abandoned by everyone else. In such cases the social justice officer is the one who directs that the person be shifted to an old age home. This officer has responsibility for supervising the welfare of the old person sent to the old age home.. Before sending the person to the old age home the social justice officer does field enquiry relating to old age home.. The social justice officer directs cases to the tribunal when such cases are brought to their attention.

## **Appellate Tribunal**

The District Collector is in charge of the appellate tribunal and hence when a petitioner is unsatisfied with the verdict he/she will approach the appellate tribunal for a review of the verdict.

### **Implementation of decision**

A separate machinery for the implementation of an appellate tribunals' decision is absent. All the 14 district collectors have stated that they receive most appeals for revision of verdict related to property petition rather than maintenance. A petitioner may not have received favorable verdict in regard to the property petition either due to the fact that the property was transferred before 2007 and in that case the provisions of the Act are ineffective. In other cases the defendant may have sold off the property. In the case of the latter the defendant is asked to pay either a share or an amount equivalent to the cost of the property. In such cases the defendants will either make the payment or if they are unable to make the lump sum payment the defendants will agree to provide financial support to the petitioner without fail. In the case of maintenance petition the financial capacity of the defendant is reviewed and on the basis of that the maintenance amount may or may not be revised. After a verdict is reviewed a revised verdict may be given to the petitioner in which case the district collectors have stated that they there is no mechanism in place to ensure that the verdict is implemented. The only thing is that since it is statutory the defendants are legally bound to comply.

### **Time taken to dispose off cases**

On an average the collectors have stated that the time taken to dispose off a case will basically depend on the nature of the case and based on that it may take anywhere from 2 months to 4 months. There is no time limit mentioned for reviewing of the verdict and disposing off the petition and hence many cases are delayed. Exceptionally the district collector of Palakkad stated that usually a case is disposed off within 2 to 3 days.

### **Time spent for appellate tribunals' work**

The appellate tribunals have conveyed that the time spent for appellate tribunals' work will depends on the number of cases that are pending with the appellate tribunal. Some appellate tribunals, like in the case of the RDOs, have a designated day for the hearing process and for dealing with the work related to MWPSA.

### **Number of cases**

The district collectors were asked the number of cases they handled under both maintenance and property petition and every one of the collectors conveyed that he/she handled more

petitions related to property disputes than maintenance petition. Of this, the highest number of property petitions have been reported by Thiruvananthapuram and Thrissur collectors.

### **Penalty adequate or not**

The collectors said that the purpose of the Act is good but the penal provision is felt to be inadequate and most of them regarded it as too soft. The collectors suggested that the amount of fine and period of imprisonment be increased from Rs.5000/- to Rs.10,000/- and from 3 months to 6 months respectively.

### **Problems in handling a case**

Asked about the problems faced during handling a case all collectors except Palakkad collector conveyed that they faced time constraints as they are not able to spend sufficient time for the work of MWPSA nor for the hearing of the cases. Alappuzha collector conveyed that many of the cases that come for appeal at the appellate tribunal seem to have vested interests as the issue behind the petition may not be related to either maintenance or property. In such cases in the due course of the hearing it is found that the verdict issued by the RDO would be the most appropriate. In such situations much time is lost in catering to a non-genuine case rather than hearing from a genuine petitioner.

### **Limitations**

The following limitations were stated by the collectors:

**Time constraint:** With other duties and tasks there are limitations in dedicating time for the work related to MWPSA.

**Wrongful petitions:** Most petitions seem to be motivated by family quarrels and personal disputes with the defendant.

### **Assessment and Suggestion made by the Dt. Collectors to make the Act more client friendly**

The overall opinion on the Act is positive and it is perceived as very useful for a senior citizen or parent who is suffering and deprived of the basic qualities of life. Various

suggestions were put forth by the collectors to make the Act more efficient and client friendly as well as focused.

Steps should be taken to provide proper awareness program among the senior citizens about the various provisions of the Act.

Both the petitioner and defendant should be held accountable for the misuse of the Act.

Measures should be included to prevent the senior citizen from being taken advantage of by the children or kin who utilize the provisions of the Act for their own benefits.

As many cases of physical abuse are reported under the Act, a provision should be included to address this issue and harsher punishments should be invoked against children or kin who may be responsible.

The amount of maintenance should be determined on the basis of the income of the defendant. After a clear assessment on it and after considering the needs of the petitioner the amount of maintenance should be determined.

Measures and mechanisms should be put in place to ensure the accountability of defendants in abiding with the verdict.

Full disclosure about the assets of both the petitioner and defendants should be demanded in order to help the RDO reach a fair and amicable verdict

In order to ensure that the verdict is implemented the local governing bodies and their work force can be utilized. A case can be reported to the concerned Panchayat or Corporation which in turn can carry out the follow-up after the verdict.

## **Conciliation officers**

The data on conciliation officers were collected from all 21 RD Offices and one conciliation officer was interviewed from each RD Office.

**Table 18: Number of Conciliation officers in each RD Office**

<b>RD Office</b>	<b>No of conciliation officers</b>
<b>Adoor</b>	<b>3</b>
<b>Alapuzha</b>	<b>6</b>
<b>Chengannur</b>	<b>4</b>
<b>Devikulam</b>	<b>3</b>
<b>Fort Kochi</b>	<b>4</b>
<b>Idukki</b>	<b>5</b>
<b>Kanagad</b>	<b>3</b>
<b>Kollam</b>	<b>3</b>
<b>Kottayam</b>	<b>3</b>
<b>Kozhikode</b>	<b>10</b>
<b>Muvattupuzha</b>	<b>5</b>
<b>Ottaplam</b>	<b>16</b>

<b>Pala</b>	<b>3</b>
<b>Palakkad</b>	<b>6</b>
<b>Perinthalmanna</b>	<b>4</b>
<b>Thalaserry</b>	<b>8</b>
<b>Thiruvalla</b>	<b>4</b>
<b>Thiruvananthapuram</b>	<b>3</b>
<b>Thrissur</b>	<b>8</b>
<b>Tirur</b>	<b>10</b>
<b>Wayanad</b>	<b>4</b>

The above table represents the number of conciliation officers in each RD Office. Ottapalam with 16 conciliation officers has the most number of conciliation officers among all the 21 RD Offices. Adoor, Devikulam, Kollam, Kanagad, Kottayam, Pala and Thiruvananthapuram have the least number of conciliation officers with all the 7 RD Offices having 3 conciliation officers each.

#### **Appointment to the post of conciliation officers.**

The appointments of conciliation officers have been through two methods. Conciliation officers are selected from either a senior citizens association or by the Social justice department. Appointment through senior citizens association has taken place primarily through two organisations namely the Kerala Senior Citizens Forum and Senior Citizens Friends Welfare Association. Thalaserry and Fort Kochi are exceptions, the conciliation officer of the former was appointed from a different organization named the Elders Forum and the conciliation officer of the latter was working in a different organization called Santhwana as a counsellor. On the request of the RDO they took up the post. Most of the conciliation officers who are selected from the above mentioned organizations are part of the governing body of these organizations. The second method of appointment has been through the social justice office. In this case interviews were held for possible candidates and

selection was based on the basis of interview. Chengannur is an exception; the four conciliation officers were appointed by the social justice office without the interview process. Here they were asked if they were interested in working as conciliation officers and on showing interest they were asked to join the RD Office as the designated conciliation officers.

#### **Nature and number of cases**

The nature of cases that are dealt by conciliation officers in most RD Offices are equally divided between maintenance petition and property petition. The conciliation officers of Thrissur have stated that 76% of the cases handled by them are maintenance petitions.

Palakkad and Chengannur conciliation officers have stated that they have dealt with more property related petitions than maintenance petitions.

The number of cases dealt by each conciliation officer varies as some have only just started their work as conciliation officers whereas others have been working as conciliation officers since 2009, that is, ever since the Act came into force. Officers who have been in position for 2 to 4 months have worked on an average of 10 to 20 cases during the time period. Conciliation officers who have been in office for a year to 10 years have dealt with 60 cases to more than 400 cases.

### **Procedure for handling a case**

Every RDO has a different procedure for referring a case to the conciliation officer. Certain RDOs decide after holding discussions with the conciliation officer to see if there is scope for conciliation and as per the decision a case may or may not be referred for conciliation. In other cases referring of a case to conciliation officer will be based on the discretion of the RDO whereby during the hearing process the RDO shall refer a case to the conciliation officer. The step followed for the first method is: on the day of the hearing the conciliation officers are informed and after that hearing the RDO and the conciliation officers will have a mutual discussion. Then it will be decided whether the case should be referred to the conciliation officers. Then if the case is referred for conciliation, they take up the case and later decide a date and meet the two parties and then have a counseling session during which an attempt will be made to come up with an amicable solution. If the solution is agreeable to both parties, the conciliation officer will inform the decision to the RDO. Then the order will be passed by the RDO. If a decision can't be reached the case is settled by the RDO. For the second method, on the day of the hearing the conciliation officers will also be present and when a case is referred to the conciliation officers they are given a copy of the complaint that was received by the RDO. On the basis of that both parties are asked to explain the issue and after hearing both parties an amicable decision is reached which has to be acceptable to both the parties involved; if not the issue will be referred back to the RDO

### **Problems faced in handling a case**

**Attitude of the both parties:** Even though some cases are referred for counseling session most of the parties are not looking for amicable settlement and thus it is difficult to help either parties reach an amicable decision.

**Communication gap:** The defendants are under the impression that they are being penalised even before they attend the meeting and because of this there is much difficulty in having the defendants attend the meeting. There should be a way to communicate to the defendants that their version of things will be heard just as that of the petitioner and that this is a safe space where both involved parties can communicate freely and negotiate.



**Physical altercation:** The nature of the case sometimes leads to escalation from the side of the defendants. In such cases the defendants have resorted to physical violence towards the petitioner and the counsellor. In some cases they have torn up the files.

**Verbal abuse:** Sometimes both the parties involved will resort to verbal abuse towards each other and towards the counsellor.

**Proper infrastructure:** Counseling needs to be done in a calm environment where the involved parties can participate in the counseling process without any distractions. So every tribunal must have adequate infrastructure for the counseling sessions to be carried out..

**Defendant's non-compliance:** The defendants most of the time do not show up for the counselling session; in certain cases the defendants will be abroad.

**Personal vendettas:** Some cases from the beginning would have been filed out of grudge against the defendant by the petitioner or the petitioner may have been instigated to do so by the defendants' siblings or kin.

**Presence of local politicians and lawyers:** There are instances when either party will have a local politician or lawyer accompany them throughout the hearing process and they will accompany them for the counselling session as well which diffuses the purpose and scope for reaching an amicable decision as either party won't communicate openly with each other.

The nature of the petitions is such that the issues between either party are really volatile and sometime arguments break out between both parties. Mostly defendants due to their stubbornness do create more problems than the petitioner. Comparatively defendants are more pro one of the steps is followed: both the parties involved are advised in accordance to their problems and arguments and the other method is to refer the case back to the RDO.

### **Success rate of counseling**

The conciliation officers have reported a success rate of 50% to 80% in the counselling cases that have been handled by them. A Fort Kochi Conciliation officer who has been working as a counsellor in the RD Office for over 2 years has stated that he has had 90% success rate in disposing off cases. Few cases of failure have been accounted by the conciliation officers. Needless to say, all conciliation officers say that counselling is the right way to solve the issues. When there are issues which are considered to be complicated, it will take a little amount of discussion to come to a mutual understanding. Before taking up a legal action, some counselling would surely help the petitioner and the defendants.

### **Opposition and acceptability**

The conciliation officers have stated that they have met most of the opposition from the part of the defendant. The problem faced is that the petitioners are not seen to have a problematic behavior whereas in the case of the defendants they are not ready to reconcile with the petitioner due to their stubbornness and non-participation and some defendants outrightly

refuse to have a conversation with the petitioner. When a verdict by the conciliation officer is not acceptable to the petitioner, the conciliation officer would ask for the desirable agreement from the petitioner and then if it's not implementable or not acceptable to the defendants then again an effort is made to reach a verdict which will be amicable to both parties. The defendant may not find the advice of the conciliation officer acceptable in cases when the petitioner may want a monthly maintenance of Rs.10,000 which might not be affordable for the defendants or sometimes in relation to property which might have been transferred to the defendant by his or her own will. Then again in this case further efforts are made to reach an amicable decision.

### **Adequate time for counseling**

All conciliation officer has conveyed that they get enough time for adequate counselling sessions except for one conciliation officer from Ottapalam who has conveyed that the time allotted for counseling work was inadequate as he felt that the time provided was not sufficient. Every RDO has counselors working during the day of the hearing and on an average 2-3hours of time is spend for one case during one counseling session. The only issue is when either the petitioner or the defendant doesn't show up for the designated **Experience of other counselors**

The general opinion about the counselors is positive as the counselors under a particular RDO identify themselves as a team. Every conciliation officer works individually on the cases assigned to him/her and only the conciliation officers of Palakkad RD Office conveyed that they handle cases as a team of three. The conciliation officers conveyed that there is much cooperation amongst the conciliation officers and that they work to the best of their abilities to reach a verdict.

### **Scope of counseling in the MWPSA**

Overall the general opinion about conciliation is positive as it is viewed as a method to reconcile before proceeding to legal procedures. It gives both the petitioner and defendant the chance to reconcile and rectify their actions. The conciliation officers have viewed that the provision for counselling is an absolute necessity under the Act. Counselling reduces the miscommunication and misconception between the two parties and facilitates a conversation between two parties; it paves the way for better communication and resolving of the issue on hand.

### **Problems in handling cases and suggestion to rectify them**

Most of the conciliation officers have conveyed that they do not face any problem in handling cases. The problems that have been stated by the conciliation officers are the non-participation of either the defendant or petitioner, the reverting back on the decision that was arrived at during the counseling session and trust issues. Failure to attend the conciliation meeting is a major problem. Without the participation of both the parties it is not possible to reach a

decision through counselling. Most of the time the defendant doesn't oblige with the request to attend the meeting and that leads to unprecedented delay in reaching a verdict. Another problem identified is the reverting back on decision. After the counselling sessions both parties will reach an amicable decision but on the day of the verdict either of the parties may back down from the previous decision which will revert the petition back to square one.

### **Suggestions from Conciliation Officers to make the Act more client friendly**

- Mechanism should be introduced to ensure effective implementation of the verdict.
- There should be quicker and efficient means to ensure the participation of the defendants in the hearing and implementation process; the present mechanism is time consuming
- Ensure that a case is disposed off within 90 days without fail
- There should be some power delegation between the conciliation officer and RDO.
- The penal provision of the Act should be made more stringent by increasing the amount of fine and term of imprisonment because only with harsher and more stringent punishment can we ensure the cooperation and compliance of the defendant. The suggestion is that the maximum amount for maintenance should be reassessed and instead of stating Rs.10,000/- as the maximum for maintenance it should be determined on the basis of income of the defendant, which will be fair for both the petitioner and defendant.
- A reasonable amount should be set as remuneration for the conciliation officers as this will motivate them to do better.
- Help petitioners from having to pay bribery and hefty fees to lawyers for the preparation of the complaint

## **Old Age Homes**

Chapter 3 of the Act deals with the establishment of Old Age Homes. It says among other things that every district in the country should have at least one old age home with a capacity to accommodate 150 indigent senior citizens

Kerala has 15 government old age homes, one in each district and with an extra home in Thiruvananthapuram district for women, and over 600 old age homes in the NGO sector. Around 17,000 senior citizens live here.

Our sample of petitioners contained 6 members living in old age homes. We therefore decided to make a study of selected old age homes in the State. The study covered 10 homes in the NGO sector and two in the Government sector. We found that several old age homes in the NGO sector have vacant seats. Ironically more old age homes are being opened every year with government sanction. There are a few homes which are pay and stay homes and all of them

are in the private sector. All other homes are free for residents. It was found that almost all of them are run on welfare lines. The modern concept of rights-based living is yet to be implemented in them.

Government has brought out draft rules for maintenance of old age homes in the State but these rules have not been implemented in any of the homes. However, in the Govt. sector an effort has been made to raise at least some of the homes to international standards and one in Kannur district has been selected for running as a model old age home. Govt's aim is to extend this model to other homes run by the Government and to prompt those run by private agencies to follow the line.

Govt. is running another programme called "Sayamprabha" (evening light) which is actually Daycare Centres. These centres have many facilities in addition to food and leisure activities and these include yoga, prayer, medical help, counseling, distribution of nutritional food and the like, and are run by trained supervisors. Govt. has already selected 70 Daycare Centres run by local government agencies for implementing this scheme. It intends to extend these facilities to old age homes also as part of its programme for modernization of old age homes.

## **Medical care of senior citizens**

Chapter 4 of the Act provides for medical care of senior citizens. The All India Programme in this regard is the National Programme for the Health Care of the Elderly (NPHCE) which provides for one Centre in each state with total geriatric facility.

In the process of data collection the maintenance officers had stated the need to have an agency to provide for the petitioners' care, especially geriatric care, that could help in assessing the petitioners' age-related health and wellbeing. To examine this proposal our study team made brief visit to the Geriatric Ward of the Thiruvananthapuram Medical College. This ward is part of the NPHCE Scheme

The Regional Geriatric Centre for the elderly in the medical college is a specialty ward constituted specifically for the treatment of the old. Major private hospitals are now getting equipped with geriatric facilities though private medical colleges are slow in adopting this facility.

The geriatric care ward of TVM Medical College is a super specialty ward. The centre is expected to provide advanced training for doctors, nurses, social workers and physiotherapists intervening in geriatric care across the state. The centre, has 32 hi-tech beds. The Centre has plans to introduce a post-graduate programme in geriatrics. There are sufficient facilities being provided to ensure that the elderly who approach the centre are able to avail the facilities and treatment without much delay and difficulties. The doctors are very empathetic with the patients and do treat the elderly with the much deserved care. A suggestion is made include a research wing with it to do intensive research on gerontology and geriatrics to update the data

and knowledge related to the elderly so as to provide the elderly with care that can be of global standards. It may be pointed out that in small measure such facilities exist in all other govt. medical colleges and District hospitals in the State. Govt. plans to expand the services provided in the Geriatric Units including research and training of medical faculty in geriatrics in these colleges and hospitals.

## **Feedback from Investigators**

- While trying to find the address of the petitioner it is often found that the address they had given in the petition was of a rented house and in some cases it was found that the petitioner had deceased while waiting for the verdict.
- The addresses received from Palakkad RDO were mostly incorrect and incomplete.
- The staff of Thrissur RDO expressed their appreciation in such a study being carried out about the MWPSA Act and they extended their support by helping the investigator with all the valuable information they needed for the data collection; similar was the case in Alappuzha RD Office.
- In a few cases both the defendants and the petitioner will be living in the same compound or next to each other. In such cases, they will know that the Investigator has visited one of them and will be very cautious in giving their responses to the Investigator's queries.
- Majority of the petitioners don't prefer to be put up in old age homes, very rarely have a few expressed interest in being put up in an old age home. The petitioners convey that they are fine with living in abuse and mistreatment at the hands of their own kin.
- Awareness about the MWPSA Act is very limited among the petitioners. Most of the petitioners had either approached the police station or a lawyer who in turn directed them towards the RD Office from where they were told to file a petition. Even after the filing of petition or after the verdict they are not aware of all the benefits that they can possibly receive from the MWPSA Act. Some are not even aware that the petition that they have filed is under this particular Act.
- The time limit of 90 days for a case to be disposed off is sometimes disregarded. There are cases that have taken months and up to an year to be called for a hearing.
- Cases have been written off by RDOs without taking the needed action, that is they suppress the case and in the register that is maintained for the MWPSA act they write it as being disposed off.
- There is no effective communication between the petitioner, defendant and tribunal at the time of hearing.

- The act is basically useful in cancelling property rights of children on ancestral property and redirecting it back to the parents. The maintenance aspect of it is not met though. As in many cases the petitioner is not paid the maintenance amount as per the verdict and follow up is absent to assess if they have been paid or not.
- Many petitioners have preferred not to go for appeal when they are dissatisfied with the verdict or denied the maintenance mentioned in the verdict, due to their old age, health problems, financial reasons and difficulty to travel. Due to these difficulties they find it undesirable to go for appeals.
- Most of the petitioners do not find jail term and fine for noncompliance with the verdict to be a desirable measure to correct the situation. Since the defendants are children or close kin the petitioner finds that it can be emotionally troubling and nothing good can come out of the defendants being jailed or fined.
- In some RDOffices records pertaining to the MWPSA dating back to the enforcement of the Act are not available mostly due to the data being disposed or destroyed at regular intervals to protect the privacy of the individual. Such is the case in Devikulam and Thiruvananthapuram RD Offices.
- Investigators when meeting the petitioners for data collection were at different occasions asked by some petitioners to assist them with their appeal petition or to simply help them out with further procedure as in many maintenance petitions the petitioners are not paid the said maintenance amount.

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## **Chapter 10**

# **Case Studies**

### **Case 1, Adoor**

The petitioner had filed the petition against his eldest daughter for failure to provide maintenance and for neglect. The petitioner was a daily wage laborer. Due to old age and ill health he is unable to work. His daughter is employed but refuses to provide for the

parents and also has forcefully taken ownership of the parent's property which is why the petitioner had filed the petition. But the verdict was not favorably for the petitioner as it stated that he be paid a maintenance amount of Rs.500/- per month. Since the amount is not sufficient for meeting their basic needs the petitioner refused to accept this.

### **Case 2, Alappuzha**

The petitioner has five children of her own and was living with her children in a rented house. Even though she was living with her 5 children she received no care or support from them, she was a stranger in the household. She used to beg in the streets to earn a living and to feed herself. While begging she met with a car accident and was hospitalized. Even in such a condition her children refused to take care of her which is when the local leaders got involved and encouraged her to file a complaint under the MWPSA Act and with their help she did file the complaint. The RD Office proceedings took place as usual, there was a hearing and verdict thereafter but the verdict was disregarded by the children and she went back to the streets to earn her living from begging. She died 3 months back. Since her children were living in a rented house no further contact could be made.

### **Case 3, Palakkad**

The petitioner is survived by 12 children of her own. The petitioner had filed the complaint against her second daughter's son who is her grandson. He is a goldsmith and money lender. The petitioner had borrowed money from him on two different occasions and had paid back more than she borrowed. But the defendant kept harassing her with made up debt to the point that he forced her to write off the house and property in her name to him which left her homeless. The house was built by her and her husband and all of her children and grandchildren were living under the same roof. Due to the defendant's action the petitioner was left to fend for herself which is when she filed the petition with Palakkad RDO. But the verdict came in favor of the defendant and the petitioner was left to the streets. On pleading with the defendant he allowed her to live in one of the rooms of the house and locked up the rest, now for two years she has been living in that one room which is now in dire need of renovation. She survives on the widow pension that she receives.

### **Case 4, Palakkad**

The petitioner had filed the case against the defendant after the petitioner's husband passed away. The petition was based on a property dispute. The defendant had fraudulently taken possession of the land that was in the petitioner's and her husband's name while his father was on his death bed. For this he had forged fake documents stating that this particular property is being transferred to the defendant's name on own accord of the petitioner.

After the petitioners' husband passed away this led to problems within the family and the petitioner approached the Palakkad RDO. Foreseeing this possibility the defendant had approached the RDO and showed him the concerned documents and convinced him that the petitioner was lying. As a result the verdict came against the petitioner and so she was forced to approach the women's cell which intervened and it was decided that the defendant shall pay the petitioner and her kin the money equivalent in value of the property. As a result the petitioner was allowed to continue living in her house and the money was paid to her other children who now contribute to take care of her.

#### **Case 5, Perinthalmanna**

The petitioner was a widow 80 years old living with son and wife. The petitioner had always lived with them. The petitioner was ailing from age related diseases due to which she was ill-treated by her daughter in law who started treating her like a burden. The petitioner states that the defendant often used to tell her to die off and once things escalated to the point where the daughter in law connived with her husband, the petitioners' son and decided to poison the petitioner for which they poisoned the petitioners drinking water. On seeing her consume the water the defendants waited for the poison to take effect but the petitioner felt that the water tasted different and so did not drink. On seeing that she didn't die they went on with their harassment. After this the petitioner approached the tribunal for protection of her life.

#### **Case 6, Perinthalmanna**

A widowed petitioner above the age of 80 lived in a joint family that consisted of her 2 sons and a daughter in law. The petitioner had approached the tribunal to get relief from the physical abuse and threats that she was subjected to by her younger son and eldest daughter in law. The reason for the physical violence towards the petitioner was that she had witnessed the defendant having a relationship with the sister in law and for questioning it. She was beat up by both out of fear the petitioner would make the matter public, the petitioner had approached the tribunal but on approaching the tribunal the defendants influenced the officers and gave them the impression that the petitioner was not mentally fit and was having delusion. The petitioner being old and without the means to influence could not demand justice even though she had approached the tribunal to get relief from her perpetrators under the Act.

#### **Case 7, Thalassery**

The petitioner had been living alone for almost 10 years in a broken down old house. The land where the house was located was in her husbands name but the house was built by her. Her husband was physically and mentally abusive of her. He had another wife and



children in that marriage. Her sons also look after their father and was abusive towards the mother. Both the sons and the husband used to beat her. Once her son slapped her and as result she sustained injury to her ear drum. Everything in her house is broken. She had filed a petition due to the repeated physical abuse by her husband and sons. She received a positive verdict from the RDO which stated that neither the husband nor the sons are to enter her property and they are to pay maintenance of Rs.3000/- per month but after the first few month no payments were made to the petitioner and the abuse still continues.

#### **Case 8, Tirur**

The petitioner is survived by his wife and four sons. He worked as a construction worker when he was capable of working. Due to a stroke one side of his body is now completely paralyzed. After he fell sick his wife and sons abandoned him. They refused to take care of his needs and denied him protection. He currently lives in a room rented for Rs. 3000. He does not have anyone taking care of him. The petitioner mostly spends his time in front of shops talking to friends and eats if possible. His health condition is deteriorating. He filed a petition with the tribunal and got a verdict of Rs. 4000/- per month to be paid by his children but as yet he has not received any payments from his children.

#### **Case 9, Wayanad**

The petitioner had filed the complaint against his elder son for being abusive and negligent, the reason stated for the negligence is that the parents, in this case the petitioners, belonged to the Muslim community but due to personal reasons had converted to Christianity due to which the defendant had faced some trouble growing up but as an adult he reverted back to Islam and wanted his parents to do the same. When they refused to do so he refused to take care of them and resorted to mental and physical abuse. After the filing of the petition and verdict the defendant was cooperative with the petitioner but after a while the defendant defaulted in making the payments and refused to take care of the petitioners.

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## **Chapter 11**

### **Suggestions**

The Maintenance and welfare of parents and senior citizens Act 2007 enacted to ensure the welfare of the senior citizens is a landmark initiative towards the wellbeing of the growing elderly population of the country. The Act was framed to cater to the needs of elderly population a decade ago. Since then the socio-economic needs of the elderly have changed drastically and the challenges that the elderly faced in 2007 may well be obsolete with the present aging population facing new challenges in the wake of which the Act should be scrutinized and changes should be incorporated to meet the new challenges.

In this study the working aspects of the Act was analyzed through the beneficiaries of the Act, the Defendants and the officials who at various stages facilitate the Act and implement its different provisions. After an extensive analysis of the data collected, the following suggestion are made to improve the Act.

#### **Suggestions:**

- Under the definition of “relative” of the Act, the daughter-in-law and son-in-law should be included so as to legally account them under the MWPSCA.
- The maximum amount of maintenance should be modified and appropriately increased from 10,000. A senior citizen should be paid on the basis of his/her needs and the income capacity of the defendant.
- Documentation and filing process of the petitions should be improved. There should be a format for filing the petition which should clearly state the address for communication. Address proof should be collected as part of the petition.
- Akshaya Centres and local governing bodies should be brought into the picture to mediate between the senior citizen and tribunals.
- Digitization of filing of the petition should be done:
- (1) Every petitioner should be given a unique identification number. With the help of this number the petitioner can report default and non-compliance of payment to the tribunal.
- (2) A petitioner should be able to file the petition online or with help from Akshaya Centres.

- (3) At the tribunal level also a petition should be filed online and the corresponding petition number should be given to the petitioner and defendant which will avoid discrepancy.
- (4) The petitioner should be able to correspond with the local Akshaya Centre or local governing body instead of having to go to the tribunal to know of the progress of the petition.
- The medical aspect of the Act should have been more elaborated. Probably as a result of its brevity the Kerala Rules do not have a section on this chapter even though Kerala govt. has made elaborate provisions for geriatric care of the elderly. The aspect of research and development which is neglected should find an important place in any programme of healthcare expansion.
- As part of the programme for expansion of geriatric treatment, the following steps are recommended:
  - All Medical Colleges and District Hospitals should have geriatric wards. Also, all major private hospitals should have geriatric wards
  - The geriatric wards should be attended by trained doctors and nurses.
  - Medical colleges should offer special courses in geriatrics so that they could train doctors and nurses in geriatric care.
  - In view of vastly the increasing number of geriatric population in the State, these should be taken up on a priority basis.
  - Old age homes run both by the Government and NGOs are lacking in many things from the point of view of the residents. To begin with, there should be a clear idea on the part of the management of these homes on the rights of the residents and there should be a machinery to ensure their compliance by the officials.
  - The old age homes should be able to cater to the psycho-social needs of the petitioner.
  - There should be special facilities in Old age homes for the treatment and care of disabled inmates and those suffering from chronic diseases.
  - Govt. of Kerala has a programme for running model old age homes under its control and this should be extended in a phased manner to private old age homes also. At present, they are run on traditional lines.
  - Govt. has already drafted model rules for running an old age home and these rules should be implemented as early as possible.

- Full time counseling should be offered under the Act for the aggrieved so that the senior citizen can get consultation any time and then proceed to file a petition under the Act.
- The penal punishment for the defendant for non-compliance with the verdict of the tribunal should be increased from 3 months of imprisonment and Rs.3000/- fine to 6 months of imprisonment and a fine of Rs.10,000/- for those who abandon their parent or parents.
- A point that emerges here is in what way imprisonment of the erring respondent will benefit the petitioner. The Act provides for both fine and imprisonment. In this way the punishment could be a deterrent to the defaulter. Even so, these will not be an alternative for compensation which will be several times more than the fine amount. The provision has to be suitably modified to incorporate these points.
- The aspect of neglect and abuse should be incorporated under the Act and refusal of maintenance and physical and verbal abuse should also be incorporated.
- In cases of physical abuse, torture or abandonment of the senior citizens, punishment of minimum 1 year imprisonment should be incorporated.
- Accountability of the defendants should be ensured by enforcing mechanism such as the defendants having to report to the local police station. The concerned police station should be notified when a case from their jurisdiction is decided

The concerned officials should be more vigilant to ensure that they dispose off the cases within the stipulated 90 days time itself. Better sensitisation on the various aspects of the Act should be carried out for all the stakeholders of the Act, that is, the beneficiaries, defendants, officers, staff, the police and the general public.

- The RDOs should have a list of old age homes and hospitals in their area of authority and in cases where the petitioner requires their services it will be easier for the RDOs to monitor the course of action as well.
- Uniform mechanism should be introduced to ensure implementation of the verdict; there should be delegation of power from the tribunal to police, village officers and local governing bodies.
- Field verification should be implemented by providing a vehicle and other facilities for the officials.
- The staff composition for the functioning of the Act in RD Offices should be increased and more technical assistants and clerks should be appointed.

- A post of field assistant should be created in the RD Offices for the working of MWPSCA and the post should be occupied by either social worker or sociologist.
- An action committee should be formed under every RDO to assess the progress of the work done under MWPSCA. The committee should be constituted by members of senior citizens associations, Municipality/Panchayat ward members, NGOs and activists. Monthly assessments should be made to assess the progress of the work under the Act and remedies should be sought to facilitate better functioning of the Act.
- There should be some power delegation between the conciliation officer and RDO
- If Revenue Divisional Officers are non-native then it must be mandated that they have translators to facilitate the communication between the RDO and the senior citizen/defendant.
- The involvement of lawyers should be strictly prohibited, a lawyer should not be allowed to participate in the hearing process.
- Widespread awareness campaigns should be carried out about the Act so as to enlighten the beneficiaries and defendants that the Act does not require the assistance from a lawyer.
- Disabled senior citizens and those suffering from life threatening diseases like cancer should be given priority; their cases should have a fast track procedure that will ensure faster hearing process and implementation.

The Act should be publicized more through newspapers, TV, radio, ASHA workers Kudumbasree Workers, etc.

- Every RD Office must have sufficient waiting area and access to drinking water and toilet facility.
- Every RD Office must have helpline numbers to assist the senior citizen in every step of the Act from reporting and filing of the case to verdict and implementation.
- The frequent transfers of revenue divisional officers should be avoided.

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## **Appendices**

### **i. Interview Schedules**

1. Petitioners
2. Defendants
3. Maintenance Tribunals
4. Appellate Tribunals
5. Consultants

### **ii. MWPSA Act and Rules**

1. MWPSA Act 2007
2. MWPSA Act Rules 2009

# Appendix I

(1)

## STUDY ON THE WORKING OF THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT 2007 KERALA

Conducted by Centre for Gerontological Studies, Thiruvananthapuram  
for Kerala State Planning Board

### Interview Schedule for Petitioners

RDO Office:

Name of Interviewer:

Date of Interview:

1. Name, complete address  
and Phone Number, if  
any

### General Profile

- |                           |   |
|---------------------------|---|
| 2. Age                    | (1) 60-69 (2) 70-79 (3) 80 Plus   |
| 3. Sex                    | (1) Male (2) Female   |
| 4. Place of Residence     | (1) Urban (2) Semi-Urban (3) Rural  |
| 5. Religion               | (1) Hindu Forward (2) Hindu Backward (3) SC/ST<br>(4) Christian (5) Muslim (6) Other                              |
| 6. Education              | (1) Illiterate (2) Primary (3) Secondary<br>(4) Degree (5) PG (6) Other (Describe)                                |
| 7. Marital Status         | (1) Married (2) divorced/Separated (3) widowed<br>(4) Other (Describe)  |
| 8. Occupation             | (1) Farmer (2) Labourer (3) Business<br>(4) Govt Employee (5) Private Employee<br>(6) Other (7) Not Working       |
| 9. Monthly Income if any  | (1) No income (2) Below Rs 1000 (3) Rs 1000 - 3000<br>(4) Rs 3000 - 5,000 (5) Above Rs.5, 000                     |
| 10. Source of this income | (1) Employment (2) Service Pension/Old Age Pension<br>(3) From Property (4) From Business<br>(5) Others (Specify) |

11. Family Profile:

Sl No:	Name	Relation to petitioner	Sex	Age	Marital Status	Education	Occupation	Present Monthly Income

**Living arrangement**

12. With whom do you live at present?

- (1) With one of my sons/daughters
- (2) With a grandson/grand daughter
- (3) With a brother/sister
- (4) With a friend
- (5) In an old age home
- (6) Other (describe)

13. Where were you living before filing the Petition (Same Place/Different Place?)

- (1) With one of my sons/daughters
- (2) With a grandson/ grand daughter
- (3) With a brother/sister
- (4) With a friend
- (5) In an old age home
- (6) Other (describe)

14. Are you satisfied with your current living arrangement?

- (1) Yes (2) No

15. If No, please explain why you find the living arrangement unsatisfactory?

**Health Profile**

16. How will you rate your health status at present?

- (1) Very Good (2) Good (3) Average (4) Below Average (5) Poor (6) Very Poor

17. In the past six months did you suffer from any illness that required hospitalisation for more than One week?

- (1) Yes (2) No

18. If yes, what was the illness?



19. How long was the period of hospitalisation?

(1) Up to 10 days (2) 11 to 20 days (3) 21 to 30 days (4) More than a month  
(specify period)

20. Who took care of you during hospitalisation?

- (1) Son/daughter
- (2) Grandson/grand daughter
- (3) Brother/sister
- (4) Relative
- (5) Friend
- (6) Other (describe)
- (7) None

21. Who met your expenses? (1) Self (2) Son/daughter (3) Grandson/grand daughter  
(4) Relative (5) Friend (6) It was a free hospital

22. Are you currently suffering from any of the following diseases? (1) Yes (2) No

- |                               |   |   |
|-------------------------------|---|---|
| 1. Diabetes                   | 1 | 2 |
| 2. Hypertension (BP)          | 1 | 2 |
| 3. Cardiac Problems           | 1 | 2 |
| 4. Asthma                     | 1 | 2 |
| 5. Arthritis (Joint pain)     | 1 | 2 |
| 6. Rheumatism                 | 1 | 2 |
| 7. Combination of 1 and 2     | 1 | 2 |
| 8. Combination of 1, 2 & 3    | 1 | 2 |
| 9. Any other (Please specify) | 1 | 2 |

23. Do you have any problem in the following functional areas?

Please mark as follows: (1) No (2) Very much (3) Much (4) little

- |                                 |   |   |   |   |
|---------------------------------|---|---|---|---|
| 1. Getting sleep                | 1 | 2 | 3 | 4 |
| 2. Intermittent headache        | 1 | 2 | 3 | 4 |
| 3. Intermittent cough           | 1 | 2 | 3 | 4 |
| 4. Bowel movements              | 1 | 2 | 3 | 4 |
| 5. Urinary Problem              | 1 | 2 | 3 | 4 |
| 6. Vision                       | 1 | 2 | 3 | 4 |
| 7. Hearing                      | 1 | 2 | 3 | 4 |
| 8. Remembering things           | 1 | 2 | 3 | 4 |
| 9. Going to toilet              | 1 | 2 | 3 | 4 |
| 10. Taking Bath                 | 1 | 2 | 3 | 4 |
| 11. Going to bed and getting up | 1 | 2 | 3 | 4 |
| 12. Walking outside home        | 1 | 2 | 3 | 4 |

24. Do you have other problems? (1) Yes (2) No

- |                             |   |   |
|-----------------------------|---|---|
| 1. Lack of self-confidence  | 1 | 2 |
| 2. Feeling of helplessness  | 1 | 2 |
| 3. Feeling of worthlessness | 1 | 2 |
| 4. Feeling of un-wantedness | 1 | 2 |
| 5. Depression               | 1 | 2 |
| 6. Anxiety                  | 1 | 2 |

25. Are you taking any medicines for your illness?

- (1) Yes, regularly (2) occasionally (3) No

Please explain disease and medicines

26. How much are your expenses on medicines and treatment in a month?

- (1) Below Rs.500 (2) Rs.500-1000 (3) Above Rs.1000

27. Who pays for your medicines? (1) Self (2) Son/daughter (3) Grandson/daughter (4) Relative (5) Other (Specify)

28. If not taking medicines why? (1) No money (2) Illness is not considered serious.

### **Property Relationship**

29. Did you own or do you own any property? (1) Yes (2) No If so how much in area?

30. What have you done / do you plan with this property?

- (1) I am managing it myself  
(2) I have given most of it to my children and keeping a part for myself  
(3) I have given the entire property to my children

31. If you have given your property to children how was this transaction effected?

- (1) I gave them willingly (2) I gave them out of compulsion from children

32. What was the nature of this compulsion?

- (1) Coercion  
(2) Threat  
(3) Physical assault  
(4) Other (explain)

33. Was there a condition in the property transfer that the transferee should take care of you?

- (1) Yes, There was a written agreement in the contract  
(2) Yes, There was an oral understanding in this regard  
(3) No, There was no condition

34. With which kin were you staying last?

35. Did you give away your property to him/her?

- (1) Voluntarily (2) out of compulsion from him/her/her husband  
(3) Not yet

36. Did you experience the following at the hands of the defendant or any of your children?

Select (1) Yes or (2) No

- |  |         |        |
|--|---------|--------|
| 1. Financial neglect                         | (1) Yes | (2) No |
| 2. Forcible extraction of money              | (1) Yes | (2) No |
| 3. Emotional abuse / insult                  | (1) Yes | (2) No |
| 4. Inflicting physical pain                  | (1) Yes | (2) No |
| 5. Verbal abuse rude talk                    | (1) Yes | (2) No |
| 6. Denial of personal needs clothing etc     | (1) Yes | (2) No |
| 7. Isolation from family members and friends | (1) Yes | (2) No |
| 8. Denial of health care requirements        | (1) Yes | (2) No |
| 9. Not serving food at proper times          | (1) Yes | (2) No |
| 10. Neglect                                  | (1) Yes | (2) No |
| 11. Abandonment                              | (1) Yes | (2) No |

37. What do you think is the reason for this treatment? Please explain

### **At the Tribunal**

38. What was the nature of your complaint?

- (1) Denial of proper Maintenance      (2) Property Related

39. Please state the complaint as it was mentioned in the application made to the Tribunal?

40. Who was the perpetrator?

- (1) One of the children (2) All children (3) Grand children (4) Relatives

41. Were all your children equally abusive towards you?

- (1) Yes All  
(2) Only the one with whom I am staying at present/was staying last

42. According to you, what caused the abuse?

- (1) My economic dependence on him/them  
(2) My health Problem  
(3) Denial of Property Transfer  
(4) Others (Specify)

43. Before approaching the tribunal did you try any other way to resolve the issue?

- (1) Yes      (2) No

If yes, please explain

44. How did you come to know of the MWPSA Act?

(1) Newspapers (2) Radio (3) TV (4) Son/daughter (5) Relative (6) NGO (7) Others,  
(Please specify)

45. Did you approach anybody for help in preparing the application?

- (1) No (2) Son/daughter (3) Relative (4) Neighbour (5) Friend (6) NGO  
(7) Other specify

46. What prompted you to approach the tribunal? (You can tick more than one item)
- (1) Repeated physical abuse
  - (2) Denial of Financial assistance
  - (3) Frequent harassment for property
  - (4) Mental abuse
  - (5) Neglect
  - (6) Abandonment
  - (7) Other. (Please describe)
47. Did you face any difficulty in filing the petition? Please describe
- (1) No (2) Yes (Specify)
48. Did you face any opposition in filing your petition?
- (1) From family members (2) From relatives (3) From Officials (4) From others Please explain the reason for this opposition
49. How did you find the officials in helping you?
- (1) Very cordial throughout (2) Cordial in the beginning (3) Indifferent (4) Hostile (5) Other, (Describe)
50. Did you go for counselling?
- (1) Yes (2) No
51. Please explain your experience with the Counsellor
52. What was the attitude of the Defendant at the counselling session?
- (1) Favourable (2) indifferent (3) Hostile
53. Was the matter finally settled through counselling?
- (1) Yes (2) No
54. If not what was the obstacle for a settlement?
55. How did you go to the Tribunal's office?
- (1) By Walking (2) By Auto rickshaw (3) By Bus (4) By other paid means (Explain)
56. How many times did you have to make this travel?
- (1) Only once (2) Twice (3) Thrice (4) More than three times
57. Could you manage the travel by yourself or did you need a helper to accompany you?
- (1) Could manage by myself (2) Needed a helper
58. Do you think that the Tribunal Office should be closer to the home?
- (1) Yes (2) No opinion
59. How much time did it take between the filing of the petition and final verdict?

(1) 3 months or less (2) More than three months (Please mention the period)

60. If there was delay, what was the cause for the delay?

(1) Indifference of officials (2) Delay from the defendant's side (3) Other (please explain)

61. Did you have to make any payment to anybody in filing your application or in the Process of hearing?

(1) Yes (2) No

62. If yes, to whom?

63. How much was the amount?

64. What was the Tribunal's verdict?

65. Has the verdict been acceptable to you?

(1) Quite acceptable (2) Acceptable to a great extent (3) Not quite acceptable  
(4) Not at all acceptable

66. If your answer is 3 and 4, please explain the reasons

67. As per the verdict how much is being paid to you?

68. Is this amount sufficient to meet your basic needs?

(1) Yes (2) No

69. Is this amount split among all your children equally?

Please explain the distribution

70. How is the payment being made?

(1) Lump sum (2) Instalment (3) Others (Specify)

71. If the payment is being made in installments, how many instalments have you received so far?

(1) 1- 4 (2) 5- 9 (3) 10 and above

72. Has there been any default in the payment of instalment?

(1) Yes (2) No

73. If defaulted, please explain after what period

74. In the case of default of payment have you approached the Tribunal on it?

(1) Yes (2) No

75. After approaching the Tribunal, were the payments received without default?

(1) Yes (2) No

76. Are you getting payment promptly at present?

(1) Yes (2) No

77. Do you have any suggestion on the mode of payment of the amount?

(1) Yes (2) No

If yes, please elaborate

### **Return of property**

78. If the issue was based on property, what was the Tribunal's verdict?

(1) Favourable (2) not so favourable (3) Not at all favourable

Please explain the situation

79. Are you satisfied with the verdict?

(1) Yes (2) No

80. Did you actually get back the entire property? Please explain

### **Appellate Tribunal**

81. If you have gone for appeal to the Appellate Tribunal, what was your ground?

82. How much time did the Appellate Tribunal take to dispose of your petition?

(1) One month (2) Two months (3) Three months (4) Four or more months

83. What was the verdict of the Appellate Tribunal?

84. Are you satisfied with the verdict of the Appellate Tribunal?

(1) Very much (2) To a great extent (3) Not satisfied

85. Are you getting payment regularly now?

(1) Yes (2) No

86. If no, what are you doing in the matter?

### **General**

87. What is your relationship with the defendant(s) after the verdict?

(1) Same as before (2) Became cordial (3) Became worse (4) Other (explain)

88. If you were staying with the defendant, did you shift your residence after the verdict? Please explain the present arrangement

89. Taking all factors into account, do you think that you are better off after the verdict.

(1) Very much (2) Much (3) Not much (4) Not at all

90. Do you feel more comfortable with your present living arrangement?

(1) Very much (2) Much (3) Not much (4) Not at all

91. Do you now feel that you should have avoided taking the defendant to the Tribunal?

(1) Very much (2) Much (3) Not much (4) Not at all

92. In general, do you feel relaxed after the Tribunal's verdict?

(1) Very much (2) Much (3) Not much (4) Not at all

93. How is your relationship with the members of the family now?

(1) Same as before (2) Changed for the better (3) Changed for worse

94. Are the kin blaming you for your act?

(1) Yes, all of them (2) Yes, some of them (3) They do not seem to bother about it. If you want to give any further explanation on this, please describe.

95. What is your opinion regarding stay in an old age home? Please explain if necessary.

96. In the light of your experience with the MWPSA Act, what is your opinion regarding the Act now

97. Would you like to suggest any change in the Act to make it more client-friendly? Please give your suggestions

## **Interviewer's Remarks**

(2)

### **STUDY ON THE WORKING OF THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT 2007, KERALA**

Conducted by Centre for Gerontological Studies,  
Thiruvananthapuram for Kerala State Planning Board

#### **Interview Schedule for Defendants**

RDO Office:

Interviewer:

Date:

1. Name, address and Phone No.
2. Sex: (1) Male (2) Female
3. Age: (1) Below 40 (2) 40-49 (3) 50 – 59 (4) 60 and above
4. Religion: (1) Hindu Forward (2) Hindu Backward (3) SC/ST  
(4) Christian (5) Muslim (6) Other
5. Place of residence (1) Urban (2) Semi-urban (3) Rural
6. Marital Status: (1) Single (2) Married (3) Widowed/separated (4) Other
7. Education (1) Below High School (2) High school (3) College (4) PG  
(5) Other (Describe)
8. Occupation: (1) No employment (2) Farmer (3) Labourer (4)

Trade/Business

(5) Govt. Employee (6) Other (Explain)

9. Your monthly income

(1) Below Rs. 25,000 (2) 25,000 – 50,000 (3) 50,000 – 75,000

(4) 75,000 – 100,000 (5) above one lakh

10. Household Composition:

Sl No:	Name	Relation to Respondent	Sex	Age	Marital Status	Education	Occupation	Present Monthly Income

11. Total monthly income of the family from all sources

(1) Below Rs. 25,000 (2) Rs.25, 000 to 50,000 (3) Rs.50, 000 to Rs.75, 000

(4) Rs.75, 000 to Rs. 100,000 (5) Above Rs. one Lakh

12. How many brothers and sisters do you have?

(1) None (2) one (3) 2 - 3 (4) 4 - 6 (5) More than 6

13. Your Housing status

(1) Own house (2) Rented (3) Other (please explain)

14. If rented, how much is the rent per month?

15. Was your father living with you before he went to the Tribunal?

If so, for how long?

16. Does he continue to live in the house now?

(1) Yes (2) No

17. If he has left the house, what is the reason for his leaving you?

(1) Not adequate space. (2) Living arrangement is not convenient for him

(3) Frequent quarrel with members of the family (4) Other (Please explain)

18. According to you what has been the reason for his going to the Tribunal?

1. Frequent family quarrels

2. His feeling of inadequate care by the family



3. His accusation of neglect
  4. His wanting to get possession of the house
  5. Other reasons (Please specify)
19. Have you noticed any peculiar behaviour pattern in your father?  
(E.g. Irritable temperament, demand that could not be adequately met, fault finding etc)  
(1) Yes (2) No
20. If yes, please explain
21. Do you feel that your father should not have taken the issue to the Tribunal?  
(1) Yes (2) No
22. Please explain your answer
23. Do you feel bad about the issue being taken to the Tribunal?  
(1) Yes (2) No
24. Please explain your answer
25. Did you do anything to persuade him not to resort to this step?  
(1) Yes (2) No
26. If yes, please explain what you did
27. At the Tribunal level, was there any conciliation meeting?  
(1) Yes (2) No
28. If there was a meeting, did you attend this meeting?  
(1) Yes (2) No
29. If you have not attending the conciliation meeting what is the reason?
30. What was the outcome of this meeting?
31. If it failed, why did this happen?
32. Did you attend the meeting summoned by the Tribunal?  
(1) Yes (2) No
33. If you had attended, what were your arguments at the Tribunal?
34. If you have not attended the meeting, please tell me why
35. What was the Tribunal's verdict?
36. Was it acceptable to you?  
(1) Yes (2) No
37. Do you think the Tribunal has not done justice to you?  
(1) Yes (2) No
38. If not, on what ground

39. Did you go for appeal?  
(1) Yes (2) No.
40. If you had gone for appeal, what was the outcome of this appeal?
41. If you did not go for appeal, why
42. Is the amount fixed by the Tribunal payable by you alone or is it shared by your Siblings/relatives?  
(1) Payable by me alone (2) Payable jointly with others
43. What is your share of the amount?
44. Which offer have you accepted?  
(1) Lump sum payment (2) Payment by instalments
45. Have you been making the payments without default?  
(1) Yes (2) No
46. If you have been defaulting, please state the reason for doing so.
47. In this case, for how long?
48. Do you think that the present penalty of three months imprisonment and fine of Rs.3, 000 is unjust?  
(1)Yes, It is unjust (2) No, It is fair
49. If unjust, what according to you should be a fair penalty?
50. In case the dispute related to house/property, what has been the outcome?  
Please describe
51. What is your relationship with your father now?  
(1) Same as before (2) Cordial (3) More hostile than before  
(4) Other (please describe)
52. Do you think that reconciliation with your father is desirable?  
(1) Yes (2) No
53. If reconciliation is desirable, have you taken steps/do you plan to take steps in this Effort?  
(1) Yes (2) No
54. Please explain what you have done so far or what have in mind about this.
55. Do you think it is the duty of the children to look after the parents in old age?  
(1) Yes (2) No
56. If no, please give your reasons
57. In general, who will take care of an old parent who is poor and in bad health?  
Please elaborate your answer

58. What is your opinion on the MWPSA Act?  
(1) It is good in some way (2) It is unnecessary as existing laws could handle the situation adequately (3) It needs amendment
59. If it needs amendment, could you suggest some of them?

**Interviewer's Remarks**

(3)

**STUDY ON THE WORKING OF THE  
MAINTENANCE AND WELFARE OF PARENTS AND  
SENIOR CITIZENS ACT 2007, KERALA**

Conducted by Centre for Gerontological Studies,  
Thiruvananthapuram for Kerala State Planning Board

**Interview Schedule for Maintenance Tribunals**

Name:	Interviewer:
Designation:	Date:
Revenue Division Office:	

1. How long have you been in charge of this (Maintenance Tribunal) Office?  
(1) Less than one year (2) One year (3) Two Years (4) Three or more years
2. How long have you worked as Maintenance Tribunal before coming to this Office?  
(1) Less than one year (2) One year (3) Two Years (4) Three or more years  
(5) This is the first time
3. How many cases under the Act have you handled so far?
4. How many cases have been registered in this office since you took charge as Tribunal?
5. On an average how many cases do you handle in a week in this office?
6. On an average how much time do you take to dispose of a case?
7. On an average, how much of your office time do you spend for the Tribunal's work in a week?
8. Can you give the number of cases you have handled in each category in this office so far?  
(1) Maintenance  
(2) Property dispute
9. What is the staff composition of this Office? Please list them out?

10. How many of them are part-time and how many full-time for the Tribunal's work?
11. Do you think you have adequate staff to deal with the cases being handled by you? If not how do you manage the work?
12. Do you get adequate cooperation from your staff? Please explain?
13. How many Conciliation Officers are there under this Tribunal?
14. What is the percentage of cases referred for conciliation?
15. What is the percentage of acceptance of the Conciliation decisions?

How do you ensure that your decision is promptly implemented? Please explain

17. What is the role of Maintenance Officers in implementing your decisions? Are they performing this role satisfactorily?
18. In your opinion, have these officers been effective in implementing your decisions?
19. If no, what is your suggestion in the matter?
20. How many cases of non implementation have come to your attention?
21. What is the procedure for dealing with cases of non implementation?
22. What is the percentage of cases of non-implementation needing subsequent action by you?
23. Do you feel that the present penalty is adequate? Please explain
24. What is the percentage of default of payment?
25. How many cases in this Office have been withdrawn?
26. How many cases decided by you have gone for appeal?
27. What are the major areas of complaints that you receive from the Petitioners?
28. Which age group is the highest in filing petitions under MWPSA Act?  
(1) 60 – 69 (2) 70 -79 (3) 80 Plus
29. What processes are involved from the time a petition is received to the time it is settled?
30. Do you feel that you are getting enough time to hear the problems of the elderly who register their cases?
31. What are the problems that you face while handling a case?

32. Is the Tribunal able to dispose of a case within the 90 days as mentioned in the Act? If not, what is preventing this?
33. Have you taken up any case under *SuoMotu*, Can you describe some of them?
34. How is the amount for maintenance decided? What are the parameters taken into account?
35. In restoring property/house to the Petitioner, have you come across any problem? Kindly describe.
36. Does the duty of the Tribunal end with the release of the final verdict? Kindly explain.
37. Who is responsible for ensuring the implementation of the verdict?
38. What are the mechanisms to ensure that the verdict is promptly implemented?
39. Do you get the co-operation of the Police in cases where their help is required?
40. What is the process involved in an Appeal?
41. What percentage of the Petitioners/Defendants goes for appeal?
42. How is the case of a defendant who is himself a senior citizen dealt with when considering a petition?
43. What is your general opinion/assessment about MWPSA Act?
44. What are the limitations faced by the Tribunal in effectively addressing and implementing the Maintenance act?
45. What measures would you suggest to make the Act more client friendly and at the same Time more effective from all sides?

### **Interviewer's Remarks**

**(4)**

## **STUDY ON THE WORKING OF THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT 2007, KERALA**

Conducted by Centre for Gerontological Studies, Thiruvananthapuram for  
Kerala State Planning Board

### **Interview Schedule for Appellate Tribunals**

1. Name:
2. Designation: District Collector  
District

Interviewer:  
Date

3. How long have you been handling the appeals (please include your work in other districts also)  
(2) Less than one year (2) One year (3) Two Years (4) Three or more years
4. How many cases under the Act have you handled so far?
5. Of these, how many cases have been settled
6. How many cases are pending
7. What is the machinery for implementing your decisions
8. Do you make sure that your decisions are implemented promptly
7. How many cases have been registered in this office since you took charge as Appellate Tribunal?
8. On an average how much time do you take to dispose of a case?
9. On an average, how much of your office time do you spend for the Appellate Tribunal's work in a month?
10. Can you give the number of cases you have handled in each category in this office so far  
(1) Applications for Maintenance grant  
(2) Property dispute
11. Do you feel that the present penalty for the Respondent is adequate? Please explain
12. What are the major complaints that you receive from the Petitioners?
13. What are the problems that you face while handling a case?
14. What are the limitations faced by you in effectively addressing and implementing the Maintenance act?
15. What is your general opinion/assessment about MWPSA Act
16. What measures would you suggest to make the Act more client-friendly and at the same time more effective from all points of view?

**Interviewer's Remarks**

(5)

**STUDY ON THE WORKING OF THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT 2007, KERALA**

Conducted by Centre for Gerontological Studies, Thiruvananthapuram for Kerala State Planning Board

**Interview Schedule for Counsellors**

Name and address

Interviewer:

Date

Revenue Divisional Office

1. How many Counsellors does this Revenue Divisional Office have?
2. How did you get this post?
3. How many years have you been working as Counsellor?
4. How many cases have you handled so far.
5. What are the types of cases you have handled and their number
  - (1) for maintenance,
  - (2) Property dispute
6. What is the procedure for handling a case? Please explain from beginning to end
7. What are the problems that you have faced in handling cases
8. Have you got more problems from the Petitioner or Defendant? Please explain
9. What is the nature of this problem and how did you solve it
10. How much time do you take to dispose a case
11. On an average, what is the percentage of success in your counselling work.
12. In numbers how many success cases and how many failure cases
13. Have you experienced more opposition from the Petitioner or from the Defendant
14. What were their problems
15. If your advice was not acceptable to the Petitioner what was his/her ground
16. If your advice was not acceptable to the defendant, what was his/her ground?
17. Do you think the time given for counselling work is adequate. Please explain
18. Can you give the experience of other Counsellors in this R.D. Office in terms of success and failure
19. In general, do you think that counselling is a good thing in maintenance cases.
20. Can you give the problems you generally face in handling cases.
21. Can you suggest remedies for them
22. In general what is your opinion about the MWPSA Act.
23. What suggestions can you offer in making the Act more Petitioner-friendly.

**Interviewer's Remarks**

## **APPENDIX ii**

(1)

### **THE MAINTENANCE AND WELFARE OF PARENTS AND SENIORCITIZENS ACT, 2007 Act No. 56 of 2007**

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

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

#### **CHAPTER I**

#### **PRELIMINARY**

**1. Short title, extent, application and commencement.**—(1) This Act may be called the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

(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. Definitions.**—In this Act, unless the context otherwise requires,—

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

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

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

(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 not a minor and is in possession of or would inherit his property after his death;



(h) “senior citizen” means any person being a citizen of India, who has attained the age of sixty years or above;

(i) “State Government”, 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;

(k) “welfare” means provision for food, health care, recreation centres and other amenities necessary for the senior citizens.

**3. Act to have overriding effect.**—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.

## CHAPTER II

### MAINTAINANCE OF PARENTS AND SENIOT CITIZENS

**4. Maintenance of parents and senior citizens.**—(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) 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 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.

**5. Application for maintenance.**—(1) An application for maintenance under section 4, may be made—

(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 authorised by him;

or (c) the Tribunal may take cognizance *suo motu*.

*Explanation.*—For the purposes of this section “organisation” means any voluntary association registered under the Societies Registration Act, 1860 (21 of 1860) or any other law for the time being in force.

(3) 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 as the Tribunal may from time to time direct.

(3) On receipt of an application for maintenance under subsection (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 be disposed of within ninety days from the date of the service of notice of the application to such person:

Provided that the Tribunal may extend the said period, once for a maximum period of thirty days in exceptional circumstances for reasons to be recorded in writing.

(5) An application for maintenance under sub-section (1) may be filled 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. Jurisdiction and procedure.**—(1) The proceedings under section 5 may be taken against any children or relative in any district—

(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 (2 of 1974).

(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 by notification in the official Gazette, 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 findings 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 organisation 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. Constitution of Maintenance Tribunal.**—(1) The State Government shall within a period of six months from the date of the commencement of this Act, by notification in 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.

**8. Summary procedure in case of inquiry.**—(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, 1973 (2 of 1974).

(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.

**9. Order for maintenance.**—(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.

**10. Alteration in allowance.**—(1) On proof of misrepresentation or mistake of fact or a change in the circumstances of any person, receiving a monthly allowance under section 9,

for the maintenance ordered under that section to pay a monthly allowance for the maintenance, the Tribunal may make such alteration, as it thinks fit, in the 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.

**11. Enforcement of order of maintenance.**—(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) 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 (2 of 1974) and shall be executed in the manner prescribed for the execution of such order by that Code.

**12. Option regarding maintenance in certain cases.**—Notwithstanding anything contained in Chapter IX of the Code of Criminal Procedure 1973 (2 of 1974) 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.

**13. Deposit of maintenance amount.**—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.

**14. Award of interest where any claim is allowed.**—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 may be determined by the Tribunal which shall not be less than five per cent. and not more than eighteen per cent.:

Provided that where any application for maintenance under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) 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 shall be entitled to file an application for maintenance before the Tribunal.

**15. Constitution of Appellate Tribunal.**—(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.

**16. Appeals.**—(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 authorised 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.

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

**18. Maintenance Officer.**—(1) The State Government shall designate the District Social Welfare 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 OLD AGE HOMES**

**19. Establishment of old age homes.**—(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.

*Explanation.*—For the purposes of this section, “indigent” means any 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**

**20. Medical support for senior citizens.**—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 expanded;

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

## **CHAPTER V**

### **PROTECTION OF LIFE AND PROPERTY OF SENIOR CITIZEN**

**21. Measures for publicity, awareness, etc., for welfare of senior citizens.**—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 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 services 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. Authorities who may be specified for implementing the provisions of this Act.**—

(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.

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

**23. Transfer of property to be void in certain circumstances.**—(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.

(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 organisation referred to in *Explanation* to sub-section (1) of section 5.

## CHAPTER VI

### OFFENCES AND PROCEDURE FOR TRIAL

**24. Exposure and abandonment of senior citizen.**—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.

**25. Cognizance of offences.**—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence under this Act shall be cognizable and bailable.

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

## CHAPTER VII

### MISCELLANEOUS

**26. Officers to be public servants.**—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 (45 of 1860).

**27. Jurisdiction of civil courts barred.**—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.

**28. Protection of action taken in good faith.**—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 done in good faith or intended to be done in pursuance of this Act and any rules or orders made thereunder.

**29. Power to remove difficulties.**—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:

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.

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

**31. Power of Central Government to review.**—The Central Government may make periodic review and monitor the progress of the implementation of the provisions of this Act by the State Governments.

**32. Power of State Government to make rules.**—(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 to 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 9;

(d) the 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 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.

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(2)

## **The Kerala Maintenance and Welfare of Parents and Senior Citizens, Rules, 2009**

In exercise of the powers conferred by section 32 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (Central Act 56 of 2007), the Government of Kerala make the following rules, namely:-

### **CHAPTER I**

#### ***Preliminary***

**1. Short title and commencement.** - (1) These rules may be called the Kerala Maintenance and Welfare of Parents and Senior Citizens Rules, 2009.

(2) They shall come into force at once.

**2. Definitions.** - (1) In these rules, unless the context other wise requires,-

- (a) "*Act*" means the Maintenance and Welfare of Parents and Senior Citizens Act, 2007(Central Act 56 of 2007);
- (b) "*application*" means an application made to a tribunal under section 5;
- (c) "*blood relations*", in the context of a male and a female inmate mean father-daughter, mother-son, and brother-sister (not cousins);
- (d) "*Form*" means a form appended to these rules;
- (e) "*inmate*", in relation to an old age home, means a senior citizen duly admitted to reside in such a home;
- (f) "*opposite party*" means the party against whom an application for maintenance has been filed under section 4;
- (g) "*Presiding Officer*" means an officer appointed to preside over a Maintenance Tribunal referred to under sub-section (2) of section 7, or an Appellate Tribunal under sub-section (2) of section 15;
- (h) "*Schedule*" means a Schedule appended to these rules;
- (i) "*section*" means a section of the Act;
- (j) "*State Government*" means the Government of Kerala.

(2) Words and expressions defined in the Act but not defined in these rules shall have the meanings respectively assigned to them in the Act.

### **CHAPTER II**

#### ***Procedure for Maintenance Tribunal and Conciliation Officers***

**3. Panel for appointment as Conciliation Officers.** - (1) Every Tribunal shall prepare a panel of persons suitable for appointment as Conciliation Officer under sub-section (6) of section 6, which shall include the Maintenance Officers designated under section 18.

(2) Persons referred to under sub-rule (1), other than Maintenance Officers designated under section 18, shall be chosen subject to fulfilling the following conditions, namely:-

(a) he should be associated with an organisation which is working for the welfare of senior citizens and/or weaker sections, or in the area of education, health, poverty-alleviation, women's empowerment, social welfare, rural development or related fields, for at least two years with an unblemished record of service;

(b) he should be a senior office-bearer of organisation; and

(c) he should possess good knowledge of law;

Provided that a person who is not associated with an organisation of the kind mentioned above, may also be included in the panel mentioned in sub-rule (1) subject to fulfilling the following conditions, namely:-

(i) he must have a good and unblemished record of public service in one or more of the areas mentioned in clause (a); and

(ii) he should possess good knowledge of law.

(3) The Tribunal shall publish the panel mentioned in sub-rule (1) for general information at least twice in every year, on 1st January and 1st July, respectively, and at every time any change is effected therein.

**4. Procedure for filing an application for maintenance, and its registration.** - (1) An application for maintenance under section 4 shall be made in Form 'A', in the manner laid down in clauses (a) and (b) of sub-section (1) of section 5.

(2) On receipt of an application under sub-rule (1), the Presiding Officer shall cause-

(a) its essential details to be entered in a Register of Maintenance Claim Cases, to be maintained in such form as the State Government may direct, and

(b) its acknowledgement in Form 'B' to be given, notwithstanding anything contained in rule, 5 to the applicant or his authorised representative in case of hand delivery, and its dispatch by post in other cases and the acknowledgement shall specify, *inter alia*, the registration number of the application.

(3) Where a Tribunal takes cognizance of a maintenance claim, *suo motu*, the Presiding Officer shall, after ascertaining facts, get Form 'A' completed as accurately as possible, through the staff of the Tribunal, and shall, as far as possible, get it authenticated by the concerned senior citizen or parent, or any person or organization authorised by him and shall cause the same to be registered in accordance with clause (a) of sub-rule (2) above.

**5. Preliminary Scrutiny of the application.** - (1) On receipt of an application under sub-section (1) of section 5, the Tribunal shall satisfy itself that.-

(a) the application is complete; and

(b) the opposite party has, *prima facie*, an obligation to maintain the applicant in terms of section 4.

(2) In case where the Tribunal finds any lacunae in the application, it may direct the applicant to rectify such lacunae within a reasonable time limit.

**6. Notice to the Opposite Party.** - (1) Once the Tribunal is satisfied on the points mentioned in sub-rule (1) of rule 5, it shall cause to be issued to each person against whom an application for maintenance has been filed, a notice in Form 'C' directing them to show cause why the

application should not be granted, along with a copy of the application and its enclosures, in the following manner:-

(a) by hand delivery through the applicant if he so desires, else through a process server, or

(b) by registered post with acknowledgement due.

(2) The notice shall require the opposite party to appear in person, on the date to be specified in the notice and to show cause, in writing, as to why the application should not be granted and shall also inform that, in case he fails to respond to it, the Tribunal shall proceed *ex parte*.

(3) Simultaneously with the issue of notice under sub-rules (1) and (2), the applicant(s) shall also be informed of the date mentioned in sub-rule (2), by a notice issued in Form 'C'.

(4) The provisions of Order V of the Code of Civil Procedure, 1908, shall apply, *mutatis mutandis*, for the purpose of service of notice under sub-rules (2) and (3).

**7. Procedure in case of non-appearance by the Opposite Party.** - In case, despite service of notice, the opposite party fails to show cause in response to a notice, the Tribunal shall proceed *ex parte*, by taking evidence of the applicant and making such other inquiry as it deems fit, and shall pass an order disposing of the application.

**8. Procedure in case of admission of claim.** - If on the date fixed in the notice issued under rule 6, the opposite party appears and accepts his liability to maintain the applicant, and the two parties arrive at a mutually agreed settlement, the Tribunal shall pass an Order accordingly.

**9. Procedure for impleading children or relatives.** - (1) An application by the opposite party, under the proviso to sub-section (5) of section 5, to implead any other child or relative of the applicant, shall be filed on the first date of hearing as specified in the notice issued under sub-rule (2) of rule 6:

Provided that no such application shall be entertained after such first hearing, unless the opposite party shows sufficient cause for filing it at a later stage.

(2) On receipt of an application under sub-rule (1) the Tribunal shall, if it is *prima facie* satisfied, after hearing the parties, about the reasonableness of such application, issue notice to such other child or relative to show cause why they should not be impleaded as a party, and shall after giving them an opportunity of being heard, pass an order regarding their impleadment or otherwise.

(3) In case the Tribunal passes an order of impleadment under sub-rule (2), it shall cause a notice to be issued to such impleaded party in Form "C" in accordance with rule 6.

**10. Reference to Conciliation Officer.** - (1) In case, on the date fixed in the notice issued under rule 6, the opposite party appears and shows cause against the maintenance claim, the Tribunal shall seek the opinion of both the parties as to whether they would like the matter to be referred to a Conciliation Officer and if they express their willingness in this behalf, the Tribunal shall ask them whether they would like the matter to be referred to a Conciliation Officer and if they express their willingness in this behalf, the Tribunal shall ask them whether they would like the matter to be referred to a person included in the panel prepared under rule 3, or to any other person acceptable to both parties.

(2) If both the parties agree on any person, whether included in the panel under rule 3 or otherwise, the Tribunal shall appoint such person as the Conciliation Officer in the case, and shall refer the matter to him, through a letter in Form 'D', requesting the Conciliation Officer

to try and work out a settlement acceptable to both parties, within a period not exceeding one month from the date of receipt of the reference.

(3) The reference in Form 'D' shall be accompanied with copies of the application and replies of the opposite party thereto.

**11. Proceedings by Conciliation Officer.** - (1) Upon receipt of a reference under rule 10, the Conciliation Officer shall hold meetings with the two parties as necessary and shall try to work out a settlement acceptable to both the parties, within a period of one month from the date of receipt of the reference.

(2) If the Conciliation Officer succeeds in working out a settlement acceptable to both the parties, he shall draw up a memorandum of settlement in Form 'E', get it signed by both parties, and forward it, with a report in Form 'F' along with all records of the case received from the Tribunal, back to the Tribunal within a month from the date of receipt of the reference.

(3) If the Conciliation Officer is unable to arrive at a settlement within one month after the receipt of a reference under rule (10), he shall return the papers received from the Tribunal along with a report in Form 'G', showing efforts made to bring about a settlement and the points of difference between the two parties which could not be reconciled.

**12. Action by the Tribunal in case of settlement before a Conciliation Officer.** - (1) When the Tribunal receives a report from the Conciliation Officer under sub-rule (2) of rule 11, along with a memorandum of settlement, it shall give notice to both parties to appear before it on a date to be specified in the notice, and confirm the settlement.

(2) If on the date specified in the notice as above, the parties appear before the Tribunal and confirm the settlement arrived at before the Conciliation Officer, the Tribunal shall pass a final order in terms of such settlement.

**13. Action by the Tribunal in other cases.** - (1) In case where-

(i) the applicant(s) and the opposite parties do not agree for reference to their dispute to a Conciliation Officer as per rule 10, or

(ii) the Conciliation Officer appointed under rule 10 sends a report under sub-rule (3) of rule 11, conveying his inability to arrive at a settlement acceptable to both the parties, or

(iii) no report is received from a Conciliation Officer within the stipulated time-limit of one month, or

(iv) in response to the notice issued under sub-rule (1) of rule 12, one or both the parties decline to confirm the settlement arrived at by the Conciliation Officer.

the Tribunal shall give to both the parties an opportunity of advancing evidence in support of their respective claims, and shall, after a summary inquiry as provided in sub-section (1) of section 8, pass such order as it deems fit.

(2) An order passed under rule 7, rule 8 or under sub-rule (1) above shall be a speaking one, spelling out the facts of the case as ascertained by the Tribunal, and the reasons for such order.

(3) While passing an order under sub-rule (1), directing the opposite party to pay maintenance to an applicant, the Tribunal shall take the following facts into consideration:-

(a) amount needed by the applicant to meet his basic needs, especially food, clothing, accommodation, and health care.

(b) income of the opposite party.

(c) value of, and actual and potential income from the property, if any, of the applicant which the opposite party would inherit and/or is in possession of.

(4) A copy of every order passed, whether final or interim on an application, shall be given to the applicant(s) and the opposite party or their representatives, in person, or shall be sent to them through a process server or by registered post.

**14. Maximum maintenance allowance.** - The maximum maintenance allowance which a Tribunal may order against the opposite party to pay shall, subject to a maximum of rupees ten thousand per month, be fixed in such a manner that it does not exceed the monthly income from all sources of the opposite party, divided by the number of persons in his family, counting the applicant or applicants also among the opposite party's family members.

### CHAPTER III

#### *Procedure of Appellate Tribunal*

**15. Form of appeal.** - An appeal under sub-section (1) of section 16 shall be filed before the Appellate Tribunal in Form 'H', and shall be accompanied by a copy of the impugned order of the Maintenance Tribunal.

**16. Registration and acknowledgement of appeal.** - On receipt of an appeal, the Appellate Tribunal shall register it in a register to be maintained for the purpose in such form as the State Government may direct, and shall, after registering such appeal, give an acknowledgement to the appellant, specifying the appeal number in Form 'I'.

**17. Notice of hearing to the respondent.** - (1) On receipt of an appeal, the Appellate Tribunal shall, after registering the case and assigning an appeal number, cause notice to be served upon the respondent under its seal and signature in Form 'J' requesting to appear before the Appellate Tribunal on the date specified;

(2) The notice under sub-rule (1) shall be issued through registered post with acknowledgement due, or through a process server;

(3) Simultaneously with the issue of notice under sub-rules (1) and (2) the appellant shall also be informed the date mentioned in sub-rule (1) by a notice in form 'J';

(4) The provisions of Order V of the Civil Procedure Code shall apply *mutatis mutandis* for the purposes of service of notice issued under sub-rule (1) and (3).

### CHAPTER IV

#### *Scheme for Management of Old Age Homes Established Under Section 19*

**18. Scheme for management of old age homes for indigent senior citizens.** - (1) Old age homes established under section 19 shall be run in accordance with the following norms and standards:-

(A) The home shall have physical facilities and shall be run in accordance with the operational norms as laid down in the Schedule.

(B) Inmates of the home shall be selected in accordance with the following procedure:-

(a) application shall be invited at appropriate intervals, but at least once in each year, from indigent senior citizens, as defined in section 19 of the Act, desirous of living in the home;

(b) where the number of eligible applicants on any occasion is more than the number of places available in a home for admission, selection of inmates will be made in the following manner:-

- (i) the more indigent and needy will be given preference over the less indigent applicants;
- (ii) other things being equal, older senior citizens will be given preference over the less old; and
- (iii) other things being equal, female applicants will be given preference over male applicants.

Illiterate and/or very infirm senior citizens may also be admitted without any formal application if the District Magistrate or other competent authority, designated by him for the purpose, is satisfied that the senior citizen is not in a position to make a formal application, but is badly in need of shelter;

(C) While considering applications or cases for admission, no distinction shall be made on the basis of religion or caste;

(D) The home shall provide separate lodging for men and women inmates, unless a male and a female inmate are either blood relations or a married couple;

(E) Day-to-day affairs of the old age home shall be managed by a Management Committee which shall be constituted in accordance with orders and guidelines issue by the State Government from time to time, such that inmates are also suitably represented on the Committee.

(2) State Government may issue detailed guidelines/orders from time to time for admission into and management of old age homes in accordance with the norms and standards laid down in sub-rule (1) and the Schedule.

## **CHAPTER V**

### ***Duties and Powers of the District Magistrate***

**19. Duties and powers of the District Magistrate.** - (1) The District Magistrate shall perform the duties and exercise the powers mentioned in sub-rules(2) and (3) so as to ensure that the provisions of the Act are properly carried out in his district.

(2) It shall be the duty of the District Magistrate to-

- (i) ensure that life and property of senior citizens of the district are protected and they are able to live with security and dignity;
- (ii) oversee and monitor the work of Maintenance Tribunals and Maintenance Officers of the district with a view to ensuring timely and fair disposal of applications for maintenance, and execution of Tribunals' orders;
- (iii) oversee and monitor the working of old age homes in the district so as to ensure that they conform to the standards laid down in these rules, and any other guidelines and orders of the State Government;
- (iv) ensure regular and wide publicity of the provisions of the Act, and Central and State Governments' programmer for the welfare of senior citizens;
- (v) encourage and co-ordinate with Panchayats, Municipalities Nehru Yuwa Kendras, Educational Institutions especially their National Service Scheme Units, Organisations, Specialists, Experts, Activists, etc. working in the district so that their resources and efforts are effectively utilised for the welfare of senior citizens of the district;
- (vi) ensure provision for timely assistance and relief to senior citizens in the event of natural calamities and other emergencies;

- (vii) ensure periodic sensitisation of officers of various Department and Local Bodies concerned with the welfare of senior citizens, towards the needs of such citizens, and the duty of the officers towards the latter;
  - (viii) review the progress of investigation and trial of cases relating to senior citizens in the district, except in cities having a Police Commissioner;
  - (ix) ensure that adequate number of prescribed application forms for maintenance are available in offices of common contact for citizens such as Panchayats, Post Officers, Block Development Offices, Tahasil Offices Collectorate, Police Stations, etc;
  - (x) promote establishment of dedicated helplines for senior citizens a district headquarters, to begin with; and
  - (xi) perform such other functions as the State Government may, by order, assign to the District Magistrate in this behalf, from time to time.
- (3) With a view to performing the duties mentioned in sub-rule (2), the District Magistrate shall be competent to issue such direction, not inconsistency with the act, these rules, and general guidelines of the State Government, as may be necessary, to any concerned government or statutory agency or body working in the district, and especially to the following:-
- (a) Officers of the State Government in the Police, Health and Publicity Departments, and the Department dealing with welfare of senior citizens;
  - (b) Maintenance Tribunals and Conciliation Officers;
  - (c) Panchayats and Municipalities; and
  - (d) Educational institutions.

## **CHAPTER VI**

### ***Protection of Life and Property of Senior Citizens***

**20. Action plan for the protection of life and property of senior citizens.** - (1) The District Superintendent of Police in every Districts, and in the case of cities having a Police Commissioner, such Police Commissioner shall take all necessary steps, subject to such guidelines as the State Government may issue from time, for the protection of life and property of senior citizens.

(2) Without prejudice to the generality of sub-rule (1)-

- (i) each police station shall maintain an up-to-date list of senior citizens living within its jurisdiction, especially those who are living by themselves (i.e., without there being any member in their household which is not a senior citizen);
- (ii) a representative of the police station together, as far as possible, with a social worker or volunteer, shall visit such senior citizens at regular intervals of at least once in a month, and shall, in addition, visit them as quickly as possible on receipt of a request of assistance from them;
- (iii) complaints/problems of senior citizens shall be promptly attended to, by the Local Police;

- (iv) one or more Volunteers Committee(s) shall be formed for each Police Station which shall ensure regular contact between the senior citizens, specially those living by themselves, on one hand, and the police and the district administration on the other.
- (v) the District Superintendent of Police, or the Police Commissioner as the case may be, shall cause to be published widely in the (sic) and through the Police Stations, at regular intervals, the steps being taken for the protection of life and property of senior citizens;
- (vi) each Police Station shall maintain a separate register containing all important particulars relating to the offences committed against senior citizens, in a such form as the State Government may, by order, specify;
- (vii) the register referred to in clause (vi) shall be kept available for public inspection, and every officer inspecting a Police Station shall invariably review the status as reflected in the register.
- (viii) the Police Station shall send a monthly report of such crime to the District Superintendent of Police/Police Commissioner by the 10th (sic) every month;
- (ix) list of Do's and Don'ts to be followed by senior citizens in the interest of their safety will widely be publicized;
- (x) antecedents of domestic servants and others working for senior citizens shall be promptly verified, on the request of such citizens;
- (xi) community policing for the security of senior citizens will be undertaken in conjunction with citizens living in the neighbourhood, Residents Welfare Associations, Youth Volunteers, Non-Government Organisations, etc;
- (xii) the District, Superintendent of Police/Police Commissioner shall submit to the Director General of Police and to the District Magistrate, a monthly report by the 20th of every month, about the details of crime against senior citizens during the previous month, including progress of investigation and prosecution of registered offences, and preventive steps taken during the month.
- (xiii) the District Magistrate shall cause the report to be placed before the District-level Co-ordination-cum-Monitoring Committee constituted under rule 22;
- (xiv) The Director General of Police shall cause, the report submitted under clause (xii) to be compiled, once a quarter, and shall submit them to the State Government every quarter as well as every year for, *inter alia* being placed before the State Council of Senior Citizens constituted under rule 21.

## CHAPTER VII

### *State Council and District Committees of Senior Citizens*

**21. State Council of Senior Citizens.** - (1) The State Government may, by order, establish a State Council of Senior Citizens to advise the State Government on effective implementation of the Act and the Rules and to perform such other functions in relation to senior citizens as the State Government may specify.

(2) The State Council shall consist of the following members, namely:-

- (i). Minister of the State Government in-charge of Chairman, Social Welfare; ex-officio



(ii) Secretaries of Departments of the State Member Government dealing with Disabilities, Senior Citizens ex-officio Welfare, Social Welfare, Health, Home, Publicity, Pensions and other subjects of concern to the senior citizens;

(iii) Such number of specialities and activists in the Members filed of senior citizens, as the State Government may determine, to be nominated by the State Government;

(iv) such number of eminent senior citizens, as the Members State Government may determine, but not less in number than the ex-officio members in the Council, to be nominated by the State Government;

(v) Director in-charge of Senior Citizens' Welfare Member (Social Welfare) in the State; Secretary, ex-officio.

(3) The State Council shall meet at least once in six months.

(4) Tenure of the members of the State Council, other than *ex-officio* members, rules of procedure of the Council and other ancillary matters shall be such as the State Government may, by order, specify.

**22. District Committee of Senior Citizens.** - (1) The State Government may by order, establish a District Committee of Senior Citizens for each District to advise in effective and co-ordinate the implementation of the Act and the rules at the district level, and to perform such other functions in relation to senior citizens at the district level, as the State Government may specify.

(2) The District Committee shall meet once every quarter.

(3) Composition of the District Committee, tenure of members (other than *ex-officio* members), rules of procedure and other ancillary matters shall be such as the state Government may, by order specify.

## **Schedule**

(See Rule 18)

### **Norms of Physical Facilities and Operational Standards for an Old Age Home for Indigent Senior Citizens Established Under Section 19 of the Act**

#### **I. Physical Facilities**

**1. Land :** The land for the old age home should be adequate to comply with the Floor-Area Ratio (FAR) as prescribed by the relevant urban body/State Government. In the case of semi-urban/rural areas, the State Government shall provide adequate land for setting up of an old age home of requisite capacity and for essential necessities like recreation, gardening, further expansion, etc.

**2. Living Space :** The old age home shall, as far as possible, have minimum area per inmate as per the following norms:-

(i) area of bedroom/dormitory per inmate 7.5 sq. metres

(ii) living area or carpet area per inmate i.e. including (i) above plus ancillary areas like kitchen, dining hall, recreation room, medical room, etc, but excluding verandahs, corridors, etc. 12 sq. metres

**3. Facilities :** (1) The old age home shall have the following facilities:-

- (i) residential area comprising rooms/dormitories- separately for men and women;
- (ii) adequate water for drinking and ancillary purposes;
- (iii) electricity, fans and hearing arrangement for inmates (as necessary);
- (iv) kitchen-cum-store and office.
- (v) dining hall;
- (vi) adequate number of toilets and bath rooms, including toilets suitable for disabled persons;
- (vii) recreation facilities, television, newspaper and an adequate collection of books; and
- (viii) first aid, sick bay and primary health care facilities.

(2) The old age home should be barrier-free with provision of ramps and handrails, and where necessary, lifts, etc.

**II. Operational Standards**

1. Supply of nutritious and wholesome diet as per scale to be fixed by the State Government.
2. Adequate clothing and linen for the inmates, including for the winter season.
3. Adequate arrangements for sanitation, hygiene and watch and ward/security.
4. Arrangements with the nearest Government hospital for emergency medical care and with the nearest Police Station for security requirements.

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