

PROTECTION OF ELDERLY PARENTS IN BANGLADESH: AN EVALUATION OF RELEVANT GUIDELINES

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ABSTRACT

This study aims to evaluate the provisions concerning the protection of elderly parents in the international and national legal framework and also in major religious scriptures in the context of Bangladesh. Based on the secondary sources of information, the study has observed that in spite of ample provisions, parents are not fully protected from abuse. Besides international conventions, the Parents' Maintenance Act (PMA) 2013 and Islamic principles concerning parents are the key sources providing sufficient guidance for the protection of elderly parents in the Muslim majority Bangladesh. Although there are provisions of punishment for failing to provide parents' maintenance in the existing law, very little improvement is observed concerning their maintenance. This study suggests the incorporation of the provision to enforce children to return the property of their parent, in the event they failed or declined to take care of their elderly parents. The study has emphasized the need to increase awareness pertaining to maintenance and related laws amongst citizens through the mass campaigns. Further initiative should be undertaken to ignite the young generation with religious and moral values. Early implementation of the PMA's draft rule is suggested for the assurance of parent's maintenance in Bangladesh.

Keywords: elderly citizen, parents' maintenance, human rights, elderly abuse, social security.

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PERLINDUNGAN UNTUK IBU BAPA WARGA EMAS DI BANGLADESH: SATU PENILAIAN TERHADAP PERATURAN YANG RELEVAN

ABSTRAK

Makalah ini bertujuan untuk menilai peruntukan dalam kerangka undang-undang antarabangsa dan kebangsaan berkaitan dengan perlindungan untuk ibu bapa warga emas dan juga dalam kitab-kitab agama utama di dalam konteks Bangladesh. Berdasarkan sumber skunder infomasi, makalah ini telah memperhatikan walaupun banyak peruntukan, ibu bapa tidak dilindungi sepenuhnya daripada gangguan. Selain konvensyen antarabangsa, Akta Nafkah Ibu Bapa (PMA) 2013 dan prinsip-prinsip Islam berkaitan ibu bapa adalah sumber utama menyediakan panduan yang mencukupi untuk melindungi ibu bapa warga emas dalam Muslim majoriti di Bangladesh. Walaupun ada peruntukan hukuman sekiranya gagal memberi nafkah kepada ibu bapa dalam undang-undang yang sedia ada, hanya sedikit perubahan yang diperhatikan dalam nafkah mereka. Makalah ini mencadangkan penggabungan peruntukan untuk menguatkuasakan anak-anak memulangkan harta kepunyaan ibu bapa, sekiranya mereka gagal atau menolak untuk menajaga orang tua mereka. Makalah ini menekankan keperluan untuk meningkatkan kesedaran berkaitan nafkah dan undang-undang berkaitan dalam kalangan masyarakat melalui kempen besar-besaran. Inisiatif selanjutnya harus diambil untuk menyedarkan generasi muda dengan keagamaan dan nilai-nilai murni. Perlaksanaan awal untuk membuat draf peraturan PMA dicadang bagi menjamin nafkah ibu bapa di Bangladesh.

Kata kunci: warga emas, nafkah ibu bapa, hak asasi manusia, gangguan warga emas, sekuriti sosial.

INTRODUCTION

The life of human beings is divided into five main stages— infancy, childhood, adolescence, adulthood, and old age. Each individual finds himself in different situations and faces different problems at different stages of his life. However, infancy, childhood, and old age are the stages when people become highly dependent on others— infants and children depend on parents; old aged parents depend on their adult children.¹ Thus, a good parents-children relationship is essential for

¹ Shashi Nath Mandal, “Protection of Rights of Old Age Person in India: A Challenging Facet of Human Rights,” *Global Journal of Human Social*

ensuring the protection and care of these dependents. Old aged people or senior citizens constitute a precious reservoir of human resources, gifted with diversified knowledge, varied experiences, and deep insights.² Even, many of them may be physically fit and mentally alert during their old age. Thus, aged people can contribute to families that care for and support each other's rights and obligations.³ Parents, throughout their lives, sacrifice their time, money, and essentials for the maintenance and welfare of their children since their birth.⁴ Gradually, children become independent and capable of earning, when parents become old, lose their physical strengths, and encounter deteriorating health conditions.⁵ At this time, it is the moral obligation of the children to protect their elderly parents.

The moral obligation to support one's aged parents is emphasized in various cultures and religions.⁶ In the traditional Indian subcontinent and also in Bangladesh, old age has been one of the stages of human development wherein a person attains wisdom, maturity, social and economic stability, social recognition, and emotional

Science 11, no. 5 (August 2011): 23, <http://dx.doi.org/10.2139/ssrn.1880956>.

- ² Rashmi Rani Agnihotri H. R, and K.S Malipatil, "A Study on National Policy for Older Persons," *International Journal of Research in Commerce, Economics, Management* 4, no. 12 (December 2014): 5, [file:///C:/Users/HP/Downloads/ijrcm-3-IJRCM-3_vol-4_2014_issue-12-art-05%20\(2\).pdf](file:///C:/Users/HP/Downloads/ijrcm-3-IJRCM-3_vol-4_2014_issue-12-art-05%20(2).pdf).
- ³ Rakesh Singh, *Rights of Senior Citizen: Need of the Hour with special reference to the Maintenance and Welfare of Senior Citizen Bill, 2007*, p.114, <http://www.legalserviceindia.com/article/1170-Rights-Of-Senior-Citizen.html>.
- ⁴ S. M. Ayoob, "Senior Citizens and Their Roles in Family and Household," *Journal of Politics and Law* 13, no. 2 (May 2020): 32, <https://doi.org/10.5539/jpl.v13n2p32>.
- ⁵ Sabina Yasmin, "The Rights of Parents to Maintenance in Bangladesh: An Overview of the Parents Maintenance Act, 2013," *Scholars International Journal of Law, Crime and Justice* 2, no.10 (October 2019):309-13, <https://doi.org/10.36348/SIJLCJ.2019.v02i10.003>.
- ⁶ Seymour Moskowitz, "Adult Children and Indigent Parents: Intergenerational Responsibilities in International Perspective," *Marquette Law Review* 86, no. 3 (2002): 401, <https://scholarship.law.marquette.edu/mulr/vol86/iss3/1>.

fulfillment.⁷ Consequently, society generally shows great respect for the old aged. Moreover, members of the family staying together as an extended family have also been one of the oldest traditions of human civilization. However, the tradition of the extended family is changing with the progression of time. At present, the weakening of familial ties has led to the degradation of the extended family system. The influence of western culture, migration of rural people to cities, employment avenues abroad, the self-centered attitude of children, and dilution of traditional and cultural values, are among the causes which had led to this degradation.

Nowadays, many children are not fulfilling their moral responsibility of caring for their aged parents. They regard aged parents as a burden in their family, especially when the parents are no longer able to work and earn money. Independent children become busy with their own life, which brings about cases of negligence and parent abuse.⁸ Sometimes, elderly parents are sent to old-age homes and children do not maintain any communication with them.⁹ There were even cases where the children would physically and mentally abuse their aged parents in order to gain ownership and possession of their parents' properties. A legal notice has been issued by the Supreme Court of Bangladesh on the mistreatment by children towards their elderly parents in order to get the latter's property transferred as a gift or fraudulent sale. The notice has also said that parents become helpless after transferring their property in such a way, and nursing homes become their ultimate residence.¹⁰

A high percentage of old aged people is a common phenomenon in developed countries, and it is increasing at a faster rate. According

⁷ Kamal Jeet Singh, Raghuvinder Singh, and Mamta Kumari, "The Maintenance and Welfare of Parents and Senior Citizens Act 2007: A Study," *EPRA International Journal of Multidisciplinary Research (IJMR)* 6, no.9 (September 2020): 174-176, <https://doi.org/10.36713/epra2013>.

⁸ Amena Pervin, "Protection of Parental Maintenance Right under the National Laws of Bangladesh," (LL.M. dissertation, Daffodil International University, 2020), 15, <http://dspace.daffodilvarsity.edu.bd:8080/bitstream>.

⁹ Ibid.

¹⁰ Staff Correspondent, "Legal Notice Seeking Steps to Protect Property of the Elderly," *Banglanews24.com*, February 19, 2020, <https://www.banglanews24.com/law-court/news/bd/772464.details>.

to the projection of the United Nations (UN), the world's elderly population will be more than 2 billion by 2050.¹¹ Bangladesh, a Muslim majority country, is also gradually entering into an ageing population phase because of the demographic infusion from high mortality and fertility to low mortality and fertility rates. Consequently, the elderly citizens' percentage has increased from 5.4 percent (6.02 million) in 1991 to 8.2 percent (13.6 million) in 2019.¹² Till October 2020, Bangladesh has about 15 million people aged 60 and above; their number is expected to be 36 million (22 percent of the total population) by 2050. So, it is evident that the number of elderly people is projected to increase in the near future.¹³ Protecting such a huge number of elderly people through proper maintenance and ensuring their dignity has been a great concern of the international community, rights workers, lawmakers, and people with moral values. Consequently, several guidelines, such as conventions, protocols, Acts, rules, etc. have been framed from both international and national contexts to protect senior citizens including parents. Moreover, guidelines concerning the protection of elderly citizens, especially the parents, are available in different religious scriptures.

In spite of many praiseworthy initiatives, elderly citizens are still exposed to physical, social, emotional, and financial problems. They also encounter verbal abuse and limited access to food and medical

¹¹ Siti Zaharah Binti Jamaluddin, Gan Ching Chuan, and Mohammad Abu Taher, "Strategies in the Prevention or Reduction of Elder Abuse in Bangladesh and Malaysia," *Procedia-Social and Behavioral Sciences* 172 (2015): 42, <https://doi.org/10.1016/j.sbspro.2015.01.333>.

¹² Bangladesh Bureau of Statistics (BBS), *Population Projection of Bangladesh: Dynamics and Trends 2011-2061*, Dhaka: Ministry of Planning, Government of the People's Republic of Bangladesh (2015); Bangladesh Bureau of Statistics (BBS), *Report on Bangladesh Sample Vital Statistics 2019*, Dhaka: Ministry of Planning, Government of the People's Republic of Bangladesh (2019).

¹³ Atiqur Rahman, "International Day of Older Persons: The Increasing 'Burden' of the Elderly in Bangladesh," *The Daily Star*, October 01, 2020, <https://www.thedailystar.net/opinion/news/the-increasing-burden-the-elderly-bangladesh-1970349>; Md. Jalal Uddin and Mst. Rezwana Karim, "Harnessing the Demographic Dividend: Opportunities and Challenges for Bangladesh," *IOSR Journal of Humanities and Social Science* 21, no. 8 (August 2016):11, <https://doi.org/10.9790/0837-2108080813>.

care.¹⁴ In this context, the current study intends to evaluate the guidelines concerning parents' protection provided in international conventions, scriptures of major religions, and in the national statutes of Bangladesh. The next section of this paper demonstrates the operational definitions followed by methodology, discussion of findings, and conclusion and recommendations.

OPERATIONAL DEFINITIONS

Parents, Children and Old Age

Only biological parents are included in the definition of parents while the term children refer to both son and daughter. In this paper, children include sons and daughters who are adults and are capable of performing the responsibility of maintaining their parents. Old age cannot be defined exactly; it varies according to the context. In the context of Bangladesh, people who are 60 years old and above are only considered elderly when they become physically and financially weak. Old age is surpassing the average lifespan of human beings. It is a biological reality, which has its dynamic largely beyond human control. Aging is a continuous process from birth to death, which encompasses physical, social, psychological, and spiritual changes.¹⁵ In most developed countries, the age of 60 or 65 - roughly equivalent to retirement ages- is said to be the beginning of old age. In many developing countries, old age is characterized by gradual changes in appearances, such as graying of hair, loss of teeth, sagging skins, wrinkles, and impairment of sensory functions.

Maintenance

¹⁴ Utsav Raj and Abhiruchi Galhotra, "The Maintenance and Welfare of Parents and Senior Citizens Act, 2007-Helping the Conditions of the Elderly in India," *Indian Journal of Community and Family Medicine* 5, no. 2 (2019): 157, https://doi.org/10.4103/IJCFM.IJCFM_40_19; Singh, et al., "The Maintenance and Welfare of Parents and Senior Citizens," 174.

¹⁵ Sarabjit Kaur Sran, "Maintenance and Welfare of Parents and Senior Citizens Act and Indian Values: A Study," *Journal of Positive Psychology* 3, no. 2 (July 2014):188.

The common meaning of maintenance is the act of supporting. According to section 9(1) of the Muslim Family Laws Ordinance, 1961, the term 'maintenance' indicates a legal remedy of payment to the wife, which means an amount for food, clothing, and residence. On the other hand, in the Parents' Maintenance Act (PMA), 2013 under section 2, 'maintenance' includes food, clothing, health care, accommodation, and company given by the child concerned. Maintenance includes food, clothing, lodging, medical support and also includes other necessary expenses for mental and physical needs. In present Bangladesh, the maintenance of parents is not only a moral duty but also a legal duty of children. It is one of the fundamental issues the state has worked on from the positivist approach decades ago. It may arise out of relations of consanguinity or affinity.

Elderly Abuse

Maltreatment of senior citizens is such an issue, which the victims usually do not want to discuss with others. According to the World Health Organization (WHO), abuse of elderly persons is:

a single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress to an elderly person.¹⁶

Such abuse of elderly persons may occur in different ways, such as physically, psychologically, sexually, and financially. It can also happen in the form of neglect and abandonment.¹⁷ Nowadays, elderly abuse is not just a problem for underdeveloped and developing countries. In many developed countries including the United Kingdom and the United States, elderly citizens are still treated poorly; although many efforts have been undertaken to eradicate elderly abuse.¹⁸ Therefore, elderly abuse is a concern of all societies that requires a global response.

¹⁶ "Ageing and Life-course," World Health Organization (WHO), Accessed on August 10, 2020, https://www.who.int/ageing/projects/elder_abuse/en/.

¹⁷ Jaclynn M. Miller, "International Human Rights and the Elderly," *Marquette Elder's Advisor* 11, no. 2 (2010): 354, <https://core.ac.uk/download/pdf/148687006.pdf>.

¹⁸ *Ibid.*

Rights of Elderly People

As the human rights field has become more specialized, the United Nations (UN) has recognized the particular needs of the underprivileged, such as senior citizens, children, migrant workers, disabled, and women. Advocates, referring to the human rights laws, suggest that elderly persons should be dealt with special attention.¹⁹ Many elderly persons all over the world encounter different challenges such as, discriminations and abuse, which restrict their human rights and contribution to society.²⁰ As human beings, it is their right to be looked after during their old age. Several international instruments have been framed to ensure this right of elderly persons. The human rights related to elderly persons have been stated in different international declarations, conventions, and treaties such as the Universal Declaration of Human Rights (UDHR) 1948, the International Covenant on Civil and Political Rights (ICCPR) 1966, and the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966. These instruments have mentioned some indivisible and interdependent human rights related to elderly citizens. The rights are: (a) participation in decisions related to their well-being; (b) standard living facilities covering food, shelter, and clothing; (c) social security and assistant; (d) no discrimination in all aspects of life based on age or any other status; (e) treatment with dignity; (f) protection from any kind of physical and mental torture; and (f) full participation in political, economic, and socio-cultural activities.²¹ Upon ratification of those international instruments, many States have made different statutes regarding the rights of elderly persons as well as their maintenance. Only a few states have emphasized the duty of the children to maintain their parents for

¹⁹ Marthe Fredvang and Simon Biggs, "The Rights of Older Persons: Protection and Gaps under Human Rights Laws," Social Policy Working Paper No.16, The Center for Public Policy, Australia (August 2012): 16, <https://social.un.org/ageingworkinggroup/documents/fourth/Rightsfold erpersons.pdf>.

²⁰ Ibid.

²¹ Mandal, "Protection of Rights of Old Age Person in India," 25.

example; India, Singapore, Bangladesh, China, and thirty states of the USA.²²

METHODOLOGY OF THE STUDY

This qualitative study is mainly based on the secondary data collected from diversified sources, such as books, journal articles, newspapers, and other online portals. Content analysis has been applied to extract relevant provisions concerning parents' maintenance and the protection of their property. From the national context, the PMA, 2013 has been the key document, which has been evaluated critically. Relevant provisions available in the constitution of Bangladesh have also been studied. Furthermore, four case laws related to the PMA, 2013 have been studied. There is a dearth of case laws in Bangladesh as most parents try to avoid filing cases and pursuing legal remedies even though they are severely neglected or abused. Thus, in search of existing cases and necessary insight, consultations were held with three Law professors, two judges, four advocates, and two officials from different subordinate courts. Furthermore, relevant international instruments, such as UDHR, CRPD, and CEDAW, concerning the rights of senior citizens have been reviewed. Although Bangladesh is a Muslim majority country, there are people who subscribed to other religions such as Hinduism, Christianity, and Buddhism. Thus, the guidelines related to old-aged persons, especially the parents mentioned in the aforesaid religions have also been reviewed in order to get the necessary insights.

PARENTS' RIGHTS IN INTERNATIONAL INSTRUMENTS

Even though the rights of elderly citizens have been incorporated in several documents and treaties, there are no laws that are centered on the elderly in particular.²³ Some instruments, ranging from

²² Ray Serrano, Richard Saltman, and Ming-JuiYeh, "Laws on Filial Support in Four Asian Countries," *Bulletin of the World Health Organization* 95, no. 11 (October 2017): 789, <https://doi.org/10.2471/BLT.17.200428>.

²³ Diego Rodriguez-Pinzon and Claudia Martin, "The International Human Rights Status of Elderly Persons," *American University International Law Review* 18, no. 4 (2003): 917,

international covenants to regional regulations, have incorporated rights related to all persons, and thus they apply to elderly persons.²⁴ Consequently, the specific rights of parents are often ignored. Experts argue that the best way to address the particular needs of elderly citizens and to ensure that their rights are to be protected is by drafting an instrument that will make the government responsible for such needs and rights. The governments of different states are obliged to follow the instructions of international instruments after ratification. Some provisions of UDHR, ICESCR, and ICCPR create an obligation upon the states to incorporate the provisions of these instruments in their domestic laws. The provisions of these instruments as stated in the following paragraphs are not directly related to parents or elderly persons. However, based on these provisions, States can formulate laws to protect the rights of the elderly. Although social security rights have been enshrined in the UDHR, most of the people in the world do not get benefits from any form of social security.²⁵

UDHR of 1948, which is considered the founding human rights instrument providing the first reference of rights concerning the elderly, protects the rights and freedoms of every citizen irrespective of sex, race, color, language, religion, political or other opinions, national or social origin, property, birth or other statuses.²⁶ The declaration further states that every member of society has the right to social security and some other rights crucial for the person's dignity.²⁷ This instrument has also made it mandatory for the State to insert a provision on a citizen's right to a standard of living adequate for the health and well-being of a person and his family.²⁸ Article 25(1) of UDHR states that –

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family including food, clothing, housing, and medical care and necessary social services, and the right

<https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1199&context=auilr>.

²⁴ Ibid.

²⁵ Magdalena Sepúlveda Carmona, Report of the Independent Expert on the Question of Human Rights and Extreme Poverty, UN Human Rights Council (2010), <https://www.ohchr.org/EN/NewsEvents/Pages/OlderPersons.aspx>.

²⁶ Universal Declaration of Human Rights 1948, art. 2.

²⁷ Universal Declaration of Human Rights 1948, art. 22.

²⁸ Universal Declaration of Human Rights 1948, art. 25.

to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Next to UDHR, another relevant international instrument on elderly citizens' rights is the ICESCR, 1966. Articles 3, 6, 8, 9, 10, 11, and 12 of these covenants provide the rights of elderly persons. The Committee on Economic, Social, and Cultural Rights (CESCR) is the regulatory body formed under ICESCR. General comment No. 6 of CESCR, 1995 is the most comprehensive analysis of the rights concerning senior citizens. The comment has expanded the scope of the ICESCR by providing various mechanisms required for protecting elderly citizens' rights all over the world. The title 'ICCPR' may imply that it does not have specific provisions related to the protection of the elderly. However, its articles provide some essential provisions concerning the rights of senior citizens. More specifically, Article 26 of ICCPR promulgates the rights of equal protection and social security to all.²⁹ Similarly, articles 2, 7, 9, 11, and 12 of ICESCR, 1966 and articles 2, 7, 10, and 17 of ICCPR, 1966 contained some implied provisions that make it an obligation on the state to incorporate the provisions for elderly protection.³⁰

Although the UDHR, ICCPR, and ICESCR are considered as the prominent human rights instruments, none of these explicitly prohibits discrimination on the ground of age. The rights contained in the ICCPR and ICESCR apply to all people irrespective of their status. To some extent, the provisions of these two covenants are akin to the concept of article 2 of UDHR. Article 2 states—

Everyone is entitled to all the rights and freedoms outlined in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or other status.

Among the nine subsequent international human rights treaties, only one is related to the prohibition of discrimination on the ground of age, and two are related to elderly citizens. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

²⁹ Rodriguez-Pinzon and Martin, "The International Human Rights," 923.

³⁰ Mst. Rezwana Karim, "A Critical Analysis of Parents' Maintenance Act, 2013 in Bangladesh," *Rajshahi University Law Review* 10 (December 2019): 196.

of 1979 in its article 11 provides for the equal rights of women to social security and, thus implicitly covers the elderly women. Whereas, articles 25 and 28 of the Convention on the Rights of Persons with Disabilities (CRPD) of 2008 have incorporated the provisions of services for preventing and minimizing further disabilities of elderly people. The articles have also emphasized access to retirement benefit programs.

Articles 13(1) and 16(2) of CRPD, 2008 require age-sensitive measures for disabled persons and express the rights of access to justice and protection from abuse. Some other articles of this instrument that may benefit elderly persons include articles 9, 19, 20, and 26, which are related to accessibility, independent living, personal movement, and habitation respectively.³¹ The rights protected in the instruments mentioned above are also applicable to a migrant elderly person or any old member of a migrant's family.³²

The Vienna International Plan of Action on Ageing, 1982 is the first international instrument on ageing. The objectives of the Action Plan were to increase the capacities of governments and civil society for effective dealings with the elderly and to address their needs. General references are made to human rights by affirmation and applicability of the principles and purposes of the UDHR to elderly people.

Furthermore, the United Nations (resolution 57/167) endorsed the Madrid International Plan of Action on Ageing (MIPAA), 2002. A complete realization of all human rights and fundamental freedoms of all elderly persons is the main concept throughout the plan. There are three important issues relating to the rights of the elderly; development, health and well-being, and enabling environment. MIPAA has created the regional action plan but the plan has weak monitoring on the implementation of this action plan. The UN General Assembly in 2011

³¹ Marthe Fredvang and Simon Biggs, "The Rights of Older Persons: Protection and Gaps under Human Rights Law," Social Policy Working Paper no. 16 (August 2012): 11, <https://social.un.org/ageing-working-group/documents/fourth/Rightsofolderpersons.pdf>.

³² Maggie Murphy, "International Human Rights Law and Older People: Gaps, Fragments and Loopholes," OHCHR Open-ended Working Group on Ageing (2012): 4, <https://www.helpage.org/silo/files/international-human-rights-law-and-older-people-gaps-fragments-and-loopholes.pdf>.

(resolution 65/182) identified the limited awareness and implementation of MIPAA. As MIPAA is not a human rights treaty, so, there is a challenge to implement it and States are not bound to execute any of the recommendations of it. Moreover, no comprehensive human rights structure has been made and some important human rights are not included in the plan, for example; equality before the law, non-discrimination, access to justice, and freedom from torture or other degrading treatment.³³

Beyond the aforesaid international instruments, some regional instruments are also available for the protection of elderly persons. For example, the Charter of Fundamental Rights of the European Union and the Inter-American Human Rights System have also incorporated some provisions concerning the rights of elderly persons covering the economic, social, and cultural rights. Along with these rights, the African Charter on Human and Peoples' Rights intends to protect the civil and political rights of elderly persons.

Moreover, some elderly-related laws have also been framed and enacted in different regional countries in the last few decades. For example; Protection of the Rights of Elders Act, 2000 in Sri Lanka; Senior Citizen Act, 2006 in Nepal; Senior Citizen Act, 2006 in Bhutan; The Maintenance and Welfare of Parents and Senior Citizen Act, 2007 in India; Senior Citizen Law, 2016 in Myanmar; and Maintenance and Welfare of Old Parents and Senior Citizen Act 2019 in Pakistan are among the prominent ones.³⁴ Statutes and policies applicable to elderly abuse in Malaysia include the Domestic Violence Act, 1994, the Penal Code, Care Centre Act, 1993, and the National Policy for the Elderly, 1996 (revised in 2011).

PARENTS' MAINTENANCE IN RELIGIOUS SCRIPTURES

³³ Nahid Ferdousi, "Protecting Elderly People in Bangladesh: An Overview," *Malaysian Journal of Law and Society* 24 (August 2019): 70, <https://ejournal.ukm.my/juum/article/view/36954>.

³⁴ Md Mehedi Hasan Khan, "Changing Family Demography and Emergence of Aged Care Law and Policy in Bangladesh" (Paper presented at the International Seminar on Family Demography and Family Law around the World, Montreal, Canada, 16 December 2020), <https://iussp.org/sites/default/files/Md%20Mehedi%20Hasan%20Khan%20Revised%2018%2012%202020.pdf>.

A very significant proportion of the total population all over the world and also in Bangladesh are, to some extent, followers of the four major religions, such as Islam, Hinduism, Christianity, and Buddhism. Therefore, a review of the guidelines concerning parents' maintenance in the scriptures of these major religions is essential. The following subsections systematically summarize those guidelines.

In Islam

In Islam, parents are held in the position of reverence, which is evident from various sources. Parents are the persons who have done innumerable favors for their children. They provide protection, food, and clothing to the newly born. Thus, parents deserve thanks and obedience for the favors. The guidelines mentioned in the Quran and Hadith instruct the followers to respect the rights of parents with kindness and equity. The Quran, the holy book for Muslims, emphasizes feeling grateful to parents and doing good to them.³⁵ Allah has ordered people to worship him (Allah) and to be good to their parents.³⁶ In another verse of the Quran, Allah says, "You have to be kind to your parents."³⁷ Allah has forbidden us from mistreating our parents saying —

If you get one of them (parents) or both at their old age, never say to them 'fie' or utter any word that indicates your boredom with them, nor scold them, but speak to them with respect.³⁸

In the next verse, Allah has ordered people to extend their arms of humbleness to parents and also instructed them to pray for parents uttering the words "Oh, my lord, shower them with your grace as they raised me when I was an infant."³⁹ Again, by mentioning the sacrifice of the mother, Allah has enjoined human beings to be kind to their

³⁵ Masumeh Saeidi, Maryam Ajilian, Hamid Farhangi, and Gholam Hasan Khodaei, "Rights of Children and Parents in Holy Quran," *International Journal of Pediatrics* 2, no. 3-2 (August 2014):107, https://www.researchgate.net/publication/267392183_Rights_of_Children_and_Parents_in_Holy_Quran.

³⁶ Al Qur'an 4:36.

³⁷ Al Qur'an 6:151.

³⁸ Al Qur'an 17:23.

³⁹ Al Qur'an 17:24.

parents.⁴⁰ The above discussion implies that good behaviour with parents and caring of them, especially when they reach their old ages, are most praiseworthy to Allah. Performing proper duties to parents is the highest decree next to the faith and duties to Allah.⁴¹

Prophet Muhammad (SAW), in several hadiths, has emphasized the importance of children's duty concerning care and proper respect to their parents. Abu Hurairah, one of the renowned companions of the Prophet, states that once the Prophet said, "May his nose be rubbed in the dust." The Prophet said the same thing consecutively three times. One of the companions asked, who was that person, O Messenger of Allah? The Prophet replied, it is the person who has got his/her parents— one or both of them at their old ages— but he could not enter into paradise.⁴² This hadith implies that serving parents and satisfying them is the way to enter into paradise.

In other instances, the Prophet had warned his followers on the severity of disrespecting or disobeying the parents where it is regarded as one of the major sins next to associating Allah with others in faith. It has been reported that the Prophet says,

Shall I not narrate to you about the worst of the major sins? They said: Of course, O Messenger of Allah; He said: Associating others with Allah and disobeying the parents.⁴³

A hadith narrated by Asma' Binti Abu Bakr implies that even though the parents are non-believers, the children should show respect to them.⁴⁴ In the Quran, Allah has ordered people to spend for their parents, near kin, orphan, needy, and the wayfarer.⁴⁵ In another verse of the Quran, Allah has commanded people to spend for the near of kin,

⁴⁰ Al Qur'an 31:14.

⁴¹ Muhammad Nor Abdurrahim, Amilia Saidin and Mohamed Ishak Abdul Hamid, "Rights of Parents to Maintenance under Shariah Law in Malaysia," Shariah Reports, 1SHR (2015): 400, https://www.researchgate.net/publication/299448744_Right_of_Parents_to_Maintenance_Under_Shariah_Law_in_Malaysia.

⁴² Abu Isa Muhammad Ibn Isa, Jami' at-Tirmidhi, vol 6 (Dhaka: Islamic Foundation, 2015), hadith 3545.

⁴³ Abu Isa Muhammad Ibn Isa, Jami' at-Tirmidhi (Riyadh: Maktaba Dar-us-Salam, 2007), hadith 3019.

⁴⁴ Abu Abdullah Muhammad Ibn Ismail, Sahih Al-Bukhari, vol 3 (Dhaka: Tawhid Publication, 2013), hadith 2620.

⁴⁵ Al Qur'an 2:215.

needy, and the wayfarer, but not to spend wastefully.⁴⁶ Here near kin may also include parents. A hadith narrated by Amr bin Shuaib also states about the children's duty regarding the maintenance of parents. The gist of the hadith is–

A person coming to the Prophet reported that my father is taking all my property; in response, the Prophet replied that you and your property belong to your father; the Prophet also said, your children are among the best of your earnings, so eat from their wealth.⁴⁷

This hadith has clarified that parents have rights on their children's property. Thus, it is the moral obligation of the children to provide their parents as much as necessary for them.

Besides the injunctions in the Quran and hadith, Islamic scholars have unanimously expressed their opinion that the children must provide maintenance to their insolvent parents. They also agreed that the maintenance should come from the property owned by their children.⁴⁸ Scholars have also ruled that providing maintenance to parents shall depend on a number of conditions, which are connected to the situation and capability of the children. However, the fundamental consideration is that parents should be treated with equity and compassion.⁴⁹

In Hinduism

According to Hindu Law, children are liable to maintain their aged and incapable parents. An individual is personally bound to maintain his aged father and mother whether or not he has inherited any property from them. However, the liability of such maintenance only arises if those aged parents cannot maintain themselves. It is a kind of personal or absolute liability that does not depend on the possession or

⁴⁶ Al Qur'an 17:26.

⁴⁷ Abu Abdullah Muhammad Ibn Yajid, Sunan Ibn Majah, vol 2 (Dhaka: Islamic Foundation, 2006), hadith 2292.

⁴⁸ Abd al-Karim Zaydan, "Al-Mufashshal Fi Ahkam Al-Mar'ah Wa Al-Bayt Al-Muslim Fi Al-Syari'ah Al-Islamiyah," Bayrut: Mu'assasahar-Risalah (1997).

⁴⁹ Ibid.

inheritance of the property from aged parents.⁵⁰ Rather it arises from the very existence of the relationship between the parent and the child. According to Hindu scripture, a male person is obliged to maintain his wife, minor sons, unmarried daughters, and aged parents. The liability to maintain one's parents is clear in Hindu scripture as well as in the decided cases.⁵¹ According to Manu, aged parents, a virtuous wife, and an infant child must be maintained, although they have hundreds of misdeeds.⁵² A son is bound to provide maintenance to his aged parents, whether he possesses any property.⁵³ In the case of *Subbarayana v. Subbakka*, it was held that a son is under a personal obligation to maintain his aged parents. He is bound to maintain them even if he inherits no ancestral property. However, providing maintenance is only obligatory if his parents are unable to maintain themselves from their property.⁵⁴

In Christianity

In the Bible – the holy book of the Christian religion, there are guidelines relating to the care of those in need, especially the parents and elderly citizens. In 1 Timothy, particular emphasis has been given to the care and respect of widows. However, if the widow has children or grandchildren, they should take the responsibility of caring for them; it is considered very pleasing to God.⁵⁵ Later, verse 8 states –

If anyone does not provide for his relatives, and especially for members of his household, he has denied the faith and is worse than an unbeliever.

One of the Ten Commandments given to Israel by God is –

⁵⁰ Mohammad Ataul Karim, *Hindu Law in Bangladesh: Intersecting Religion, Tradition and Law* (Dhaka: Oriental Law Publishing, 2020), 93–94.

⁵¹ Mohi Uddin and Mohammad Farhad Hossain, *A Text Book on Hindu Law, Theory and Practice* (Dhaka: Hira Publications, 2014), 66-71.

⁵² Norshirvan H. Jhabhala, *Principles of Hindu Law* (Mumbai: C. Jamnadas & Co., 2011), 215.

⁵³ Karim, *Hindu Law in Bangladesh: Intersecting Religion, Tradition and Law*, 93–94.

⁵⁴ *Subbarayana v. Subbakka* (1885) 1 Mad. 236.

⁵⁵ 1 Timothy 5: 3–4.

Honor your father and your mother that your days may be long in the land that the Lord (your God) is giving you.⁵⁶

Again, it is said in the Bible that, “Honor your father and mother.”⁵⁷ In Colossians, God has ordered children to obey their parents in everything, because it pleases the Lord.⁵⁸ The Bible has also said that if any child desires to live peacefully, he should obey his parents. In another place, the Bible states—

Listen to your father who has given your life, and do not despise your mother when she becomes old.⁵⁹

Disobeying parents is a punishable offense in Christianity. It is also stated that

The eye that mocks a father and scorns to obey a mother will be picked out by the ravens of the valley and eaten by the vultures.⁶⁰

Even if anybody mistreats his parents, his punishment will be death. It is supported in God’s command, “Honor your father and your mother; and whoever reviles father or mother surely dies.”⁶¹ Again, it is stated that “Whoever strikes his father or his mother shall be put to death.”⁶² From the above-mentioned provisions, it is clear that parents must be taken care of. Here, caring for older parents means meeting their specific needs, including physical and emotional needs with a willing heart.

In Buddhism

Scriptures of Buddhism are very expressive in the caring of parents by their children and grandchildren. Sutta-Nipata, one of the critical sources of guidance for Buddhists, states —

Though being well-to-do, not to support father and mother who are old and past their youth – this is a cause of one’s downfall.

⁵⁶ Exodus 20:12.

⁵⁷ Matthew 19:19; Ephesians 6:2.

⁵⁸ Colossians 3:20.

⁵⁹ Proverbs 23:22.

⁶⁰ Proverbs 30:17.

⁶¹ Matthew 15:4.

⁶² Exodus 21:15.

The scripture also states that a wise man should support his parents as his duty.⁶³ Itivuttaka, another scripture of Buddhism, has highly praised those who respect their parents. Living with parents is also considered living with the Lord.⁶⁴

In Anguttara Nikaya, it is stated that one can never repay two persons; his mother and father. It also states that if a person were to carry his parents on his two shoulders for a hundred years while supporting and caring for them, the liability towards his parents would still not be settled.⁶⁵ According to Vinaya, the parents of Pilindavatsa were poor and he wanted to offer them his robes, but he was not sure whether he was doing the right thing. So, he went to the Buddha and asked for advice. The Buddha, on this occasion, assembled the bhikkhu and taught them the above message, and also made it a rule that bhikkhu should support their parents wholeheartedly and throughout their life.⁶⁶

In another passage of the Anguttara Nikaya, the Buddha told the monks that mother and father should be worshipped and venerated as Brahma (the teachers of old) and that they are worthy of offering.⁶⁷ The Buddha says in the AnguttaraNikaya that three duties are praised as wise and good, one of which is supporting parents.⁶⁸ In the Vinaya, it is stated that if one of a monk's parents becomes ill, the monk should go and see them even if he is not asked, since it is the duty of monks.

So, it is explicit that filial piety should be practiced by monks as well although they have renounced worldly ties and they should do it voluntarily, without any force.⁶⁹ Referring to five things that parents do for their children, such as restrain them from vice, exhort them to virtue, train them to a profession, arrange a marriage for them, and hand

⁶³ R. Epstein, "Buddhism and Respect for Parents," Accessed on March 20, 2020, <http://online.sfsu.edu/rone/Buddhism/BuddhismParents/BuddhismParents>.

⁶⁴ Ibid.

⁶⁵ Guang Xing, "Filial Piety in Early Buddhism," *Journal of Buddhist Ethics* 12 (2005): 85, <https://blogs.dickinson.edu/buddhistethics/files/2010/04/xing1228.pdf>.

⁶⁶ Ibid.

⁶⁷ Ibid, 86.

⁶⁸ Ludovic Corsini, "Filial Piety in Buddhism," *Journal of International Buddhist Studies College (JIBSC)* 5, no. 1 (2019): 36-42.

⁶⁹ Xing, "Filial Piety in Early Buddhism," 88.

over their inheritance in due time ‘SingalovadsSutta’ advises children to respect their parents and to sympathize with them. Thus, the scriptures of Buddhism provide valuable guidelines to children concerning maintenance and respect for parents.

PROTECTION OF PARENTS IN THE NATIONAL LAWS AND POLICY OF BANGLADESH

Protection of Parents in the Constitution of Bangladesh

The Constitution of the People’s Republic of Bangladesh 1972 has provided provisions for the wellbeing of elderly people. Article 15(D) of the Constitution, provides the provision of social safety programs for elderly people. However, the government is yet to implement social security programs in a wider scope with sufficient coverage for elderly people protection. Budgetary limitation and lack of proper planning for a welfare state might be the reasons behind such backwardness. A few initiatives have been taken by the government for elderly people, such as pension and retirement benefits. There are some other initiatives taken under Social Safety Net programs including allowance for elderly, freedom fighter allowance, widow and husband deserted women allowance, Vulnerable Group Development (VGD) program, and so on. These programs do not cover a vast majority of the elderly population, because the policy for the elderly has been limited to either pension schemes or retirement benefits for the government employee or Public Sector Corporation. But in the field of agriculture and industrial sectors, the elderly is being deprived of these kinds of benefits.⁷⁰

The Family Court Ordinance, 1985

Before the enforcement of the PMA, 2013, there was no specific law in Bangladesh that could bring children before the court of law for failure to provide maintenance to their parents. Parents could sue for maintenance only under section 5(d) of the Family Courts Ordinance, 1985. However, lawsuits by parents for getting maintenance under the Ordinance were hardly found because the provisions were not

⁷⁰ Ferdousi, “Protecting Elderly People in Bangladesh,” 69.

specific.⁷¹ In the case of Jamila Khatun v. Rostom Ali,⁷² it was stated in the judgment that, under Mohammedan Law, children in any circumstances are bound to maintain their poor parents, although the latter may be able to earn something for themselves. These poor parents may also file a suit in the family court for maintenance from their opulent children under the Ordinance of 1985. As the provisions are not enclosed specifically, the suit under this ordinance by parents is not widely practiced. Moreover, most of the parents are not aware of this provision.

National Policy on Older Persons, 2013

An extensive policy has been introduced to ensure a traditional supportive environment for elderly people, which has been downgraded due to socio-demographic changes. By creating favorable and supportive relations and environment the policy emphasizes enhancing communication and unity among generations. It ensures legal help to the elderly for the title and enjoyment of ancestral property and resources. The policy forbids mistreating the elderly in the family as well as in society. The policy has advised every member of the family to take care of the physical and mental health and nutrition of elderly persons. The introduction of home care services for sick elderly persons has also been emphasized in the policy.⁷³

The Parents' Maintenance Act (PMA), 2013

Similar to many other countries, elderly persons are growing fast in Bangladesh. There are many pieces of evidence that the family members are neglecting these elderly persons in many ways.⁷⁴ In order

⁷¹ Arif Ahmed, "Revisiting the Maintenance of Parents Act, 2013," *The Daily Observer*, October 12, 2017, <https://www.observerbd.com/details.php?id=99686Count>.

⁷² 48 DLR (AD) (1996) 110.

⁷³ Khan, "Changing Family Demography and Emergence of Aged Care Law," 16 December 2020.

⁷⁴ Rafea Khatun, "What Do Grown Children Owe Their Parents? A Moral Duty and Legal Responsibility in Bangladesh," *International Journal of Law, Policy and the Family* 32, no. 3 (September 2018): 363, <https://doi.org/10.1093/lawfam/eby013>.

to deal with this and to comply with the directions of the Constitution, and other international instruments concerning elderly persons, the Government of Bangladesh has enacted the Parents' Maintenance Act (PMA), 2013 with nine sections.⁷⁵

According to section 2 of the PMA of 2013, maintenance includes food, clothing, health care, accommodation, and company given by the child concerned. The positive aspect of this definition is that it includes psychological support or company of the children within the concept of maintenance. The Act has made it obligatory for children to ensure the maintenance of their parents. Although the PMA, 2013 is a new and progressive law in Bangladesh with many positive sides, it has some loopholes.⁷⁶ The Act is silent regarding the protection of the property of parents against misuse by their children, grandchildren, and others. According to the provisions of this Act, parents can enforce their children to maintain them, but they cannot restrain their children from transferring their property forcefully or through emotional blackmailing. Under this Act, if any child fails to provide proper maintenance of parents or forces them to live in an old folks home or any other place away from the child without sufficient reason, the parents can take legal action against their child.

According to section 3 of the PMA, every child of a family will ensure the maintenance of parents. If any parent has more than one child, the children will decide the issues relating to the maintenance of parents by discussion among them. Every child will have to live with his/her parents in order to ensure their maintenance. Any child is not allowed to pressurize his/her parents to live separately in an old folks home or any other place without their consent.

Section 4 of the Act also states that in the absence of parents, every child has the responsibility to maintain their grandparents. Regarding the monetary amount of maintenance, if the parents do not live with their children, every child will have to afford a logical amount as maintenance from their income.⁷⁷ If any child violates this provision, he/she shall be punished with a fine not exceeding Bangladeshi Taka

⁷⁵ Ibid.

⁷⁶ Nazia Wahab, "Maintenance to the Parents," *The Daily Star*, February 28, 2017, <https://www.thedailystar.net/law-our-rights/maintenance-the-parents-136830>.

⁷⁷ The Parents' Maintenance Act 2013, s. 3.

(BDT) 1,00,000, and in default of fine with imprisonment not exceeding three months. If anyone instigates any child for not giving maintenance to parents, he will also be liable and will be given the same punishment.⁷⁸

Section 6 of this Act states that offence of any kind under this Act shall be cognizable, bailable, and compoundable, which shall be tried by a first-class judicial magistrate or a metropolitan magistrate. However, under this Act, a court is not allowed to accept any complaint from parents unless it is written by them.⁷⁹ This Act also provides a provision for an alternative solution of the offence outside the court. It is a praiseworthy side of this Act, where the court sends the complaint of parents as well as the accused children to the representative of a local government institution. However, in the case of any such solution, both sides shall be given the chance of hearing. Section 8 of the Act states that any decision given in such a meeting shall be deemed as a judgment declared by the competent court.

The Draft Parents' Maintenance Rules, 2017

The Parents Maintenance Rules, 2017 was proposed to pave the way for the implementation of the PMA, 2013. Considering the changes in socio-demographic contexts, the Ministry of Social Welfare has proposed the rules. Migrant children will have to take care of their parents through the members of extended family and kinship networks. These Rules proposed the establishment of committees composed of members from the government, non-government, and local government bodies at different administrative levels to oversee the parents' maintenance issues. There is also a proposal for a Parents Care Policy for the establishment of Parents Care Centre, Day Care Centre, and Night Shelter under the Government and non-government initiatives. The rules also proposed an elaborate technical and socio-cultural requirement for such establishments.⁸⁰

⁷⁸ The Parents' Maintenance Act 2013, s. 5.

⁷⁹ The Parents' Maintenance Act 2013, s. 7.

⁸⁰ Khan, "Changing Family Demography and Emergence of Aged Care Law," 16 December 2020.

The Law Commission's Proposed Amendments to the Parents Maintenance Rules, 2013

The Law Commission has suggested some amendments to the 2017 Rules. As maintenance is related to morality and humanity, the Commission suggests only fine rather than imprisonment as the form of punishment for the negligence of providing parents' maintenance. The Commission proposes that the parents will seek solutions from the committees at local government levels without coming to the court. The Commission proposes to incorporate few provisions in the Act for making alternative arrangements for the elderly regarding their services beyond family.⁸¹ Governments of some developing countries assume the responsibility of parents or aged persons. With this reference, the Commission has recommended that if children are financially incapable to maintain their parents, the State should come forward to take that liability. The commission commented that the enactment of the PMA was an initiative by the government that befits the times.⁸²

Case Laws on Parents' Maintenance

Although there are many violations of the PMA reported in daily newspapers, there is a dearth of cases in this regard. The current study has found four relevant cases regarding parents' maintenance. The first instance was in 2013, wherein a father named Md. Liakot Ali filed a complaint in the 1st Class Judicial Magistrate Court, Chandpur against his son Md. Yeasin Rana for not providing him due maintenance.⁸³ A few days later, Md. Yeasin Rana sought forgiveness from the court and promised to provide proper maintenance in the future. Thus, the court closed the case by instructing Md. Yeasin Rana to provide BDT 5,000 per month to his parents.⁸⁴

⁸¹ Ibid.

⁸² Muhammad Yeasin, "Law Commission Makes Proposals on Parent's Maintenance," *The Independent*, August 30, 2018, <https://m.theindependentbd.com/arcprint/details/164102/2018-08-30>.

⁸³ Liakot Ali v. Yeasin Rana (2013), 1st Class Judicial Magistrate Court, Chandpur, Bangladesh.

⁸⁴ Rokeya Rahman, "Maintenance of Parents: Everyone Needs to Know the Law," *Daily Prothom Alo*, June 27, 2016, <https://www.prothomalo.com/search>.

In the case of *Aleya Begum v. Lance Nayek Abdul Kalam Azad*,⁸⁵ Mrs. Aleya, a widow, filed the case against her eldest son and daughter-in-law (the wife of that son). She alleged that her son did not give her any maintenance for the last 16 years; even he did not maintain any communication with her. Aleya Begum also complained that when she asked for regular maintenance, her son and daughter-in-law behaved badly towards her. After hearing the witnesses, the court was convinced about the claim of the petitioner and her eldest son and daughter-in-law were held responsible for not providing maintenance. As the allegation was proved beyond any reasonable doubt, the court pronounced its judgment and punished the offenders on January 14, 2015. The court fined the son with the amount of BDT 80,000 and the daughter-in-law BDT 70,000, and failing to pay the fines will cause them to be imprisoned for three months and two months respectively.⁸⁶

The third case was filed on January 1, 2017, before the Chief Judicial Magistrate Court, Rajshahi under sections 5(1) and 5(2) of the PMA, 2013. In the case of *Abdul Mojid v. Md. Masud Rana and Md. Abu Bakkar*,⁸⁷ Abdul Mojid filed the case against his two sons Md. Masud Rana and Md. Abu Bakkar, where Mr. Abdul Mojid alleged that his two sons used to misbehave with their parents after extracting all the property by gift through inducement. After getting all the property transferred to them, the children started torturing their parents and stopped providing any maintenance. Mr. Mojid also alleged that when he claimed for the maintenance, the sons and their wives abused him verbally, and finally, they kept Mojid away from the house on August 20, 2016. The court primarily tried to resolve the case through ADR but failed. The court finally delivered the judgment and fined BDT 20,000 to one son and BDT 30,000 to another son; in default of payment of fine, the court ordered imprisonment for three months to each of the sons.

⁸⁵ Unreported Case, CR no. 07/2014, Senior Judicial Magistrate Court No 3, Rangamati, Bangladesh.

⁸⁶ Karim, "A Critical Analysis of Parents' Maintenance Act," 202.

⁸⁷ Unreported Case, CR no. 10/2017, the Chief Judicial Magistrate Court, Rajshahi, Bangladesh.

The most recent case *Srimoti Saraswati Pramanik v. Sri Sukesh Kumar Pramanik and Srimoti Beauty Pramanik*⁸⁸ under the PMA, 2013 has been filed in the court of Joint District Judge, Rajshahi. The petitioner has claimed that her husband died leaving 24 bighas of land, but her son and daughter-in-law did not provide anything from that property. The court delivered the judgment in favor of the complainant. When the mother asked for her maintenance, her son and daughter-in-law tortured her brutally and threw her away from the house. Then she again filed a case in the Charghat Thana under the Parents' Maintenance Act, 2013. However, the case is still pending.

LIMITATIONS OF EXISTING GUIDELINES CONCERNING ELDERLY PARENTS

It is evident from the aforementioned discussion that there are detailed guidelines in the religious scriptures, international instruments, and national statutes and policies in Bangladesh relating to the maintenance of parents. However, the prevailing international, regional, and national legal frameworks are yet to ensure the recognition and protection of the human rights of elderly citizens.⁸⁹ These statutes offer piecemeal protection and are quite insufficient in addressing the protection and needs of elderly citizens. Elderly abuses are somehow not receiving attention in society and the incidents of elderly abuse are increasing gradually. Consequently, in most cases, the elderly are deprived of proper food, medication, clothes, shelter, and emotional support.⁹⁰ Most victims are incapable to report such abuses because of their cognitive impairment and other inabilities. They blame themselves for the neglect and violence they encounter during the old stages of their lives. In some other cases, elderly parents are not interested to report the abuses they experienced due to fear or

⁸⁸ Abul Kalam Azad, "Mother's Case against Her Only Son for Not Paying Maintenance at Charghat," *Rajshahi Tribune*, July 17, 2020, <https://rajshahitribune.com>.

⁸⁹ Thomas Hammarberg, "Aged People are too often Ignored and Denied their Full Human Rights," *Commissioner for Human Rights* (2008), <https://www.coe.int/en/web/commissioner/-/aged-people-are-too-often-ignored-and-denied-their-full-human-rights>.

⁹⁰ Md Zahid Hossain, AKM Mahmudul Haque, and SM Akram Ullah, "Human Rights Violation of the Elderly People in Bangladesh: Do They Enjoy Basic Needs?" *International Journal of Aging Research* 3, no. 4 (2020): 73-73, <https://doi.org/10.28933/ijoar-2020-10-2505>.

accelerated abuses or abandonment by their family members.⁹¹ Some others are unwilling to report the abuses because they are ashamed of what their children or other family members have done to them.

Most elderly abuse cases get swept under the carpet and kept within the four walls of the victims' homes.⁹² The cases are mostly underreported and not discussed because the victims themselves are unwilling to discuss them; whereas relatives and neighbors who are aware of such incidences are uninterested in getting involved. Only a very few elder abuse cases are reported occasionally, where very few of the culprits face legal actions. All these signify the degradation of moral and religious values, lack of social awareness, and improper application of existing laws. Although the PMA is treated as the landmark law to ensure the sacred duty of parents' maintenance by children, it has some limitations.

First, Section 2 of the PMA covers only the biological parents and children; thus, the Act is silent in case of the provision regarding foster parents, step-parents, and adoptive children. Second, the PMA is also silent regarding the incapacity of parents in filing elderly abuse cases. When abused parents or any of them are not capable of bearing the litigation costs, what will happen? Where will they get help? There are no such answers in the existing Act in Bangladesh. Third, sometimes the settlement of cases requires a long time when the conditions of parents become more miserable and maintenance is badly needed for their survival. However, the Act has no provision of interim maintenance or speedy trial, if the cases remain pending for a long period. Fourth, according to section 3 of the PMA, children are bound to provide a reasonable monetary amount of maintenance to parents when the latter do not live with the former. However, ambiguity remains in the law regarding the determination of a sufficient amount. Fifth, in most cases, when the children seek forgiveness and promise to provide maintenance, the parents withdraw the cases. However, this Act does not provide any provision to monitor whether the parents are getting proper maintenance. Moreover, sometimes negligence of

⁹¹ Syeda S. Jesmin, Iftekhar Amin, and Stan Ingman, "Sustainability of Seniors in Low-and-Middle-Income Societies," *Educational Gerontology* 37, no. 6 (May 2011): 548-557, <https://doi.org/10.1080/03601277.2011.570220>.

⁹² Jamaluddin, et al., "Strategies in the Prevention or Reduction of Elder Abuse," 47.

parents' maintenance and inhuman behavior towards parents by their children starts when the children had managed to get their parent's properties transferred under their name. In such cases, the existing PMA lacks any provision regarding the protection of parents' property.

RECOMMENDATIONS AND CONCLUSION

Growing old is an inevitable part of human life and is also a stage when most people desire to lead a comfortable life. However, the reality is different; elderly abuse has been very common and a secret tragedy for many people in Bangladesh. Inadequate medication, misbehavior from the family members, unhygienic living conditions, and loneliness are prevalent in the elderly life. The country has ratified most of the international instruments related to the protection of elderly citizens. Moreover, the government has undertaken the praiseworthy initiative of enacting the PMA. Consequently, the government of Bangladesh is under double obligation in ensuring parents' rights regarding the maintenance and protection of their property.

Practically, a well-formulated law may not be able to ensure its implementation; it requires mass circulation and conscious participation of citizens. Existing literature exhibits that many elderly parents are not aware of the existence of the PMA, and consequently, they can not avail the legal remedies of elderly abuse or decline of maintenance. On the other hand, some parents are well aware of the law but unwilling to file cases against their children due to emotional attachment and fear of loss of social status. The current study has observed some instances where children abuse parents immediately after bagging parents' property through gifts or otherwise. Thus, there should be a provision of returning the property so acquired, if children decline to or fail to take care of their elderly parents.

There are laws incorporating the provisions of punishment for improper caring of parents and elderly abuse. However, a very negligible improvement has been observed regarding the issue. To get the full benefit of the law, major stakeholders including the government, judiciary, human rights organization, and civil society should work together.

The scriptures of four major religions have emphasized the proper care of parents with due respect. Thus, religious education of

children can certainly help ensure the maintenance of elderly parents and the protection of their property. Side by side, initiatives should be taken to uplift the ethical and moral values of the new generations. It will make the descendants and other family members morally obliged to take care of elderly parents. Early enforcement of the PMA's draft rule and the incorporation of the suggested amendments in the Act might help improve the current condition of parents' maintenance in Bangladesh.