

## REDUCING INEQUALITIES THROUGH CRIMINAL LAW ENFORCEMENT: AN ANALYSIS OF PROTECTION MECHANISMS FOR PARENTS AND OLDER ADULTS IN GOA, INDIA

*REDUZINDO AS DESIGUALDADES ATRAVÉS DA APLICAÇÃO DA LEI PENAL:  
UMA ANÁLISE DOS MECANISMOS DE PROTEÇÃO PARA PAIS E IDOSOS EM  
GOA, ÍNDIA*

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### Abstract

Within the confines of India, according to the 2011 Census, the number of older adults (citizens of 60 years and older) in the country was 10,38,00,000. Their anticipated population in the country for 2026 (as of March 1st) was estimated to be 17,32,00,000. The National Commission Technical Group's study found Goa's population was 1,585,000, as of July 1, 2024. The population of Goa had been anticipated to reach 1.665 million by 2036. Numerous aged individuals were abandoned on the streets and compelled to beg after they are deemed unproductive by their families. Sustainable Development Goal (Reducing Inequalities) seeks to diminish inequalities on the basis of income, sex, disability, sexual orientation, race, ethnicity, religion and opportunity including age and class. The present paper focuses on criminal laws prevalent in the state of Goa for reducing inequalities with regard to senior citizens. The study evaluated efficiency of the Maintenance and Welfare of Parents and Senior Citizens Act 2007 (MWPC ACT) in state of Goa with the help of data collected from the office of Maintenance Tribunals (2009-2024) in the State. The study found that the increasing number of cases indicated that the MWPC Act was not acting as a deterrent to the commission of atrocities.

**Keywords:** Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023. The Maintenance and Welfare of Parents and Senior Citizens Act 2007 (MWPC

### Resumo

*De acordo com o Censo de 2011, o número de idosos (cidadãos com 60 anos ou mais) na Índia era de 103,8 milhões. A população prevista para 2026 (em 1º de março) era de 173,2 milhões. O estudo do Grupo Técnico da Comissão Nacional constatou que a população de Goa era de 1.585.000 habitantes em 1º de julho de 2024. A população de Goa deveria atingir 1,665 milhão em 2036. Inúmeros idosos foram abandonados nas ruas e obrigados a mendigar depois de serem considerados improdutivos por suas famílias. O Objetivo de Desenvolvimento Sustentável (Reduzir as Desigualdades) visa diminuir as desigualdades com base na renda, sexo, deficiência, orientação sexual, raça, etnia, religião e oportunidades, incluindo idade e classe social. O presente artigo enfoca as leis penais prevalentes no estado de Goa para reduzir as desigualdades em relação aos idosos. O estudo avaliou a eficiência da Lei de Manutenção e Bem-Estar dos Pais e Idosos de 2007 (MWPC ACT) no estado de Goa com a ajuda de dados coletados do escritório dos Tribunais de Manutenção (2009-2024) no estado. O estudo constatou que o número crescente de casos indicava que a Lei MWPC não estava atuando como um impedimento à prática de atrocidades.*

**Palavras-chave:** Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023. Lei de Manutenção e Bem-Estar dos Pais e Idosos de 2007 (MWPC ACT). Objetivo de Desenvolvimento Sustentável



ACT). Sustainable Development Goal 10. Code of Gentile Hindu Usages and Customs of Goa (Decree of 16 December 1880). Portuguese Civil Code of 1867. Portuguese Civil Procedure Code of 1939. Goa Succession, Special Notaries and Inventory Proceedings Act 2012.

10. *Código de Usos e Costumes Gentios Hindus de Goa (Decreto de 16 de dezembro de 1880). Código Civil Português de 1867. Código de Processo Civil Português de 1939. Lei de Sucessão, Notários Especiais e Processos de Inventário de Goa de 2012.*

## 1 INTRODUCTION

The reduction in mortality rates attributable to improved medical services has augmented the global elderly population. This has also imposed a burden on the younger people to care for the elderly. In industrialized countries, the government actively ensures proper maintenance and welfare for its senior inhabitants. The issue of upkeep and welfare for senior folks is especially acute in developing countries. In 2017, one in six aged individuals, totalling 141 million people worldwide, experienced some type of maltreatment.<sup>1</sup>

As determined by the 2011 Census of the nation of India, the quantity of older adults was 10,38,00,000. Their anticipated population for 2026 was estimated to be 17,32,00,000, according to the study from the Technical Group on Population Projections established by the National Commission on Population.<sup>2</sup> As of July 1, 2024, the estimated population of Goa was 1,585,000, according to the report of the Technical Group of the National Commission. The expected population of Goa would be 16.65 lakh in the year 2036. The population of Trinidad and Tobago, the 154th the most inhabited nation globally, is comparable to that of Goa.<sup>3</sup> Goa may be the hardest hit of India's states when it comes to the proportion of the senior demographic to the total population. In 2021, the share rose to 10.1% due to Goa's growing senior citizen population, and it's projected to reach 13.1% in 2031. According to the 2011 Census, out of 3.42 lakh houses in Goa, 37% are occupied by individuals aged 65 and more. In Goa, there are an estimated 90,000

<sup>1</sup> Maurya, P., Chattopadhyay, A., Rao, S., & Sharma, P. (2022). Understanding elder abuse in India: contributing factors and policy suggestions. *Journal of Population Ageing*, <https://doi.org/10.1007/s12062-022-09399-x>.

<sup>2</sup> Ministry of Social Justice & Empowerment. (2024, August 2). *Population of senior citizens*. Press Information Bureau. <https://pib.gov.in/PressReleasePage.aspx?PRID=1847436>

<sup>3</sup> 2024 - Report of The Technical Group On Population Projections (page no 93). (2024, April 29). *Population of goa*. Goa population 2024 - StatisticsTimes.com. <https://statisticstimes.com/demographics/india/goa-population.php>

senior residents, 8,416 of whom live independently, according to an article in a prominent journal.<sup>4</sup>

In India, senior citizens were accorded significant social prestige, with Hindu, Muslim, and Catholic societies demonstrating much respect for them. However, with the passage of time, the status of older adults in India, including Goa, had significantly evolved. Older adults did not receive the esteem they merit and were inadequately supported for their daily necessities, finally relegating them to homelessness and begging for survival. While the erstwhile Section 125 of the Criminal Procedure Code 1973 which is the present Section 144 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) of 2023 addressed the issue of upkeep of parents, it did not explicitly include provisions for the aged. The Maintenance and Welfare of Parents and Senior Citizens Act 2007 (Hereinafter referred to as MWPSA Act) was a particular statute established by the Indian legislature to offer specialized assistance for parent and older adults.

Despite being a valuable human resource, the expertise of older adults remained underutilized. Conversely, numerous older adults were expelled from their homes due to being perceived as lacking financial utility. The welfare of its populace assesses the advancement of a nation; if the elderly are not well cared for, they may end up homeless, thereby categorizing the country as underdeveloped or progressing owing to the increasing inequality.

The sacred scriptures confer a distinct dignity upon senior folks in India. The ancient texts placed the elders on a high pedestal. Nevertheless, throughout the years, the significance of senior folks has diminished.<sup>5</sup>

On June 14, 2023, the All Goa Senior Citizen Federation, in partnership with HelpAge India, commemorated World Elderly Abuse Awareness Day in Margao, Goa, India, during which a special report concerning the mistreatment of older adults was unveiled by Mr. Vinayak Valvoikar, Director of Provedoria (Institute of Public Assistance). It was revealed that seventy percent of older adults experienced emotional and psychological abuse, while sixty-five percent had been financially exploited in Goa. Approximately 55 percent of the elderly in Goa had also experienced physical abuse.

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<sup>4</sup> O Herald. (2022, October 21). *Goa needs a senior citizens' care system*. Goa needs a senior citizens' care system. <https://www.heraldgoa.in/edit/opinions/goa-needs-a-senior-citizens%E2%80%99-care-system/195492#:~:text=Coming%20to%20India%20there%20is,published%20by%20a%20leading%20publication>.

<sup>5</sup>R M Biddappa, A Study on the harsh reality of senior citizens and family issues in India, *Legal Desire International Journal on Law*, 8:27.

Furthermore, 15 percent of older persons, potentially inclusive of those who had experienced physical abuse, had suffered from disrespect, while 5 percent had faced neglect. The report on older adult's exploitation indicated that over 45 per cent of affected individuals remained inactive, while just about 2 per cent sought assistance from NGOs. Surprisingly, 2 percent of victims choose to cry and experience depression, while only 3 percent reported the incident to law enforcement. 89% of widowed women had experienced societal discrimination. According to the report, 59 percent of older women indicated that their home situation was not conducive to employment. The HelpAge India survey indicated that approximately 30 percent of senior women had experienced gender-based discrimination, while 89 percent had encountered social discrimination related to their marital status, specifically being widowed. The survey indicated that 58 percent of older women expressed concerns about potential physical injury. Simultaneously, approximately 11 percent of older women did not perceive their neighbourhood as safe and secure.<sup>6</sup>

It is therefore required to be seen in the above context whether the laws in force in the State of Goa are helpful in addressing the above situation or not.

### 1.1 Objectives of the study

- To gather and analyse statistics on the number of cases filed under the MWPC Act over time in both the Districts in the State of Goa.
- To ascertain the fact as regards the awareness of the MWPC Act viz a viz the temporal progression of cases filed in the State of Goa.
- To compare the quantity of proceedings preferred in various talukas in the State of Goa under the MWPC Act.
- To examine if the inequalities are reduced because of the enforcement of the criminal laws.

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<sup>6</sup> O Heraldo. (2023, June 15). *Over half of Goa's senior citizens have been physically abused*. Herald Goa. <https://www.heraldgoa.in/Goa/OVER-HALF-OF-GOA'S-SENIOR-CITIZENS-HAVE-BEEN-PHYSICALLY-ABUSED/206173>

## 1.2 Research questions

- Whether the cases as regards non maintenance of parent and aged individuals are increasing in the State of Goa.
- Whether the criminal laws have acted as a deterrent so as to reduce inequalities.
- Is the increasing number of cases by Parents and Senior Citizens under the MWPC Act an indication of the fast-growing awareness of the MWPC Act amongst Parents and Senior Citizens in Goa?

## 1.3 Methodology

The present paper is conducted by collecting data from the various maintenance tribunals operating in the 12 Talukas in the State of Goa. The data is obtained by submitting a relevant application in accordance with the Right to Information Act 2005. The data is thereafter analyzed and discussed.

## 1.4 Limitations

Since the data is being obtained in accordance with the Right to Information Act 2005 and the same is being supplied on different dates in the year 2024, there is a possibility that the same may not correctly show the data for the year 2024 in each Taluka as the same was collected on different dates in the year 2024.

## 2 REDUCING INEQUALITIES: BENCHMARK OF AN IDEAL LAW

The SDGs had been framed by the United Nations with the prime principle of “leave no one behind” for overall development of the nations and to tackle the universal problems.<sup>7</sup> The goals are required to be achieved by 2030 including the betterment of

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<sup>7</sup> Conboy, P. (2021). Social Exclusion in Later Life, Interdisciplinary and Policy Perspectives, *Social Exclusion in Later Life, Interdisciplinary and Policy Perspectives* **8**, 359-372, <https://link.springer.com/book/10.1007/978-3-030-51406-8>.

aged individuals in the terms of good health and wellbeing<sup>8</sup>, reducing gender inequalities<sup>9</sup>, reducing inequalities<sup>10</sup>, peace justice and strong institution<sup>11</sup>.

It has to be seen whether the Criminal Law available and in force are helpful in achieving the goal of reducing inequality or not.

### **3 LEGAL FRAMEWORK FOR THE WELFARE AND MAINTENANCE OF SENIOR CITIZENS IN INDIA**

India is a land of many laws, and luckily there are various provisions in the Constitution of India, Allied Laws and Special Laws for the betterment and maintenance of the older adults so as to reduce the inequalities which they face viz a viz other community.

#### **3.1 The Constitution of India**

The Constitution of India delineates the Rights and Duties afforded to the populace. Older adults may claim fundamental rights and directive principles of state

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<sup>8</sup> Goal 3: Optimal health is crucial for sustainable development, and the 2030 Agenda embodies the intricacies and interrelations of both concepts. It considers escalating financial and social disparities, swift urbanization, climate and environmental risks, the persistent burden of HIV and other infectious diseases, and emerging challenges including non-communicable diseases. It necessitates a revitalized emphasis on mental health concerns as well. Universal health coverage, encompassing financial risk protection, access to excellent necessary health care services, and availability of safe, effective, high-quality, and inexpensive medications, is fundamental to this objective.

<sup>9</sup> Goal 5: Eliminating all forms of discrimination against women and girls is a fundamental basic right and an essential requirement for sustainable development. Objective Five appeals to terminate all manifestations of abuse, trafficking, and sexual exploitation against women and girls. Recognizing and valuing unpaid care and domestic labor is essential to this objective, highlighting the significance of comprehensive and effective involvement and equitable chances for leadership across all tiers of decision-making in political, economic, and public spheres for women.

<sup>10</sup> Goal 10: The Goal advocates for the gradual reduction of both income disparities and outcome inequalities by guaranteeing equal access to opportunities and fostering social, economic, and political inclusion for all individuals, regardless of age, gender, disability, race, ethnicity, origin, religion, or any other socially relevant status. It also seeks to improve representation and influence for developing nations in the decision-making processes of international economic and financial institutions.

<sup>11</sup> Goal 16: Peace, stability, and effective government grounded on the rule of law, along with the adherence to principles of equality, human rights, and justice, are essential for sustainable development. The 2030 Agenda seeks to substantially diminish all manifestations of violence and collaborate with governments and communities to eradicate conflict and insecurity. Advancing the rule of law and human rights is essential to this process, along with curtailing the influx of illicit armaments and enhancing the involvement of developing nations in global governance institutions. Goal 16 emphasizes the cessation of abuse, exploitation, trafficking, corruption, and bribery, with the establishment of accountable and transparent institutions.

policy to protect their rights. The State shall not deny any individual fairness before the law or equal legal protection within the boundaries of India.<sup>12</sup> The aforementioned equality, a fundamental right, would encompass fair treatment for aged individuals as well. Article 21 of our Constitution stipulates that no individual shall be stripped of freedom or autonomy except in accordance with the method prescribed by law.<sup>13</sup> Article 21 has been interpreted to encompass the protection of the rights of aged as well.<sup>14</sup>

### **3.2 Criminal law available for reducing inequalities of senior citizens in Goa: Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023**

Section 144 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 offers recourse for wives, children, and parents to seek support. The amount of maintenance is contingent upon the family's style of living.

The Hon'ble Punjab and Haryana High Court,<sup>15</sup> has held that it can provide ex-parte ad-interim maintenance under Section 125 of the CrPC or Section 144 of the Bharatiya Nagrik Suraksha Sanhita (BNSS), 2023.

In the case of **Farookh v. Kayyakkutty**,<sup>16</sup> the Hon'ble High Court of Kerala was faced with a situation where the son refused to maintain his mother when he was successfully employed abroad. It was observed by the High Court that Section 144 is a measure of Social Justice and that filial duty towards an aged parent involves providing physical, financial and emotional support. It was even held that the son could not take a plea that his father was also maintaining his mother as the son had in independent duty to maintain his mother.

In the case of **Unneen v. Shoukathali and others**,<sup>17</sup> the Hon'ble High Court of Kerala decided a case wherein the children refused to maintain the father. The High Court

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<sup>12</sup> Article 14 of the Constitution of India

No citizen of India should be denied due process or equal protection of the laws by the Indian government. It is forbidden to treat someone differently because of their religion, color, caste, sex, or country of birth.

<sup>13</sup>*Ibid.*

<sup>14</sup> Article 21 of the Constitution of India.

Except in accordance with the process laid down by law, no person's life or personal liberty shall be taken away.

<sup>15</sup> XXXX v. XXX [CRR(F)-643-2024] 2024 LiveLaw (PH) 213, available at <https://www.livelaw.in/high-court/punjab-and-haryana-high-court/punjab-haryana-high-court-power-to-grant-ex-parte-ad-interim-maintenance-punjab-haryana-high-court-sec125-crpc-sec-144-bnss-267452> (last viewed on 25.01.2025)

<sup>16</sup> 2025 SCC OnLine Ker 12066.

<sup>17</sup> 2025 SCC OnLine Ker 754.

held that caring for one's father is an inherent moral duty that stems from love, gratitude, and respect. A father provides for his children, sacrificing his comforts and dreams to ensure their well-being and it is only fair and just that when he becomes old and dependent, the son should reciprocate this care. The High Court reversed the Order of the Trial Court and ordered maintenance to be paid to the father by the children.

### **3.3 State legislation: reducing inequalities of senior citizens in Goa**

The state of Goa has its own initiative to reduce the inequalities with regards to senior citizens.

#### *3.3.1 Code of gentile Hindu usages and customs of Goa (Decree of 16 December 1880)*

The Portuguese who ruled Goa acknowledged that the Hindus in Goa had their own customs and traditions. The Code was sanctioned by the Decree of 16 December 1880, with the first article maintaining the usages and customs of the Hindus of Goa, as reviewed and collated under the Code's stipulations. The Code embodied a century-old policy acknowledging available customs and practices implemented by the Portuguese leadership in its former overseas regions in India until their incorporation into the Republic of India. The Code had neither been annulled nor altered to date. Although little utilized by Hindus residing in Goa, it remains in effect. This is a significant customary law institution codified in Goa in 1880. Despite being referred to as a "partnership" ("sociedade") in Portuguese, the Collective Family was fundamentally different from all types of partnerships outlined in European law. Article 17 of the 1880 Code stipulated that all property, rights, and shares belonging to the Joint Family, along with any acquisitions made by its members, are classified as common assets and are administered by the Head of the Family, referred to as the "Maioral." Consequently, there were no distinct shares in this partnership.<sup>18</sup>

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<sup>18</sup>Vicente. D M (2020, February 6). *FAMILY LAW IN GOA AFTER THE ACT OF 2012: KEY CONCEPTS IN THE PORTUGUESE CIVIL CODE OF 1867 AND THE CODE OF GENTILE HINDU USAGES AND CUSTOMS OF 1880*. Faculdade De Direito, Universidade De Lisboa. Retrieved December 3, 2022, from <https://www.fd.ulisboa.pt/wp-content/uploads/2020/02/Goa-FAMILY-LAW-IN-GOA-AFTER-THE-ACT->

### 3.3.2 Portuguese Civil Code of 1867

The Code of 1867 addressed the issue of Maintenance in Section XI (Article 171-184). It referred to all essentials for sustenance, shelter, and attire. The need to provide support is mutual among descendants and ascendants, as well as among siblings, under the following conditions.<sup>19</sup>

In the case of *Smita Mahendra Halamkar & Another v/s Mahendra Tukaram Halamkar*<sup>20</sup>, the Hon'ble High Court of Bombay had held that the Judicial Magistrate First Class can exercise jurisdiction under both the laws that is the Goan Law as well as the CrPC.

### 3.3.3 Portuguese Civil Procedure Code of 1939

Section II of the Code of 1939 addressed provisional maintenance. According to the stipulations of the 1939 Code, the maintenance instalment shall be determined based on the essential requirements for the Plaintiff's sustenance, habitation, and attire, as well as for litigation expenses when legal help is unattainable. Article 394 of the 1939 Code stipulated the convening of a conference among the parties to peacefully determine and agree upon the maintenance amount. While the title of the Articles does not imply that support is restricted solely to children and spouses, an examination of the section suggests that the maintenance rules pertain exclusively to these parties. The Code of 1939 provided also for maintenance to insolvents for their subsistence under Article 1160.<sup>21</sup>

### 3.3.4 Goa succession, special notaries and inventory proceedings act 2012

The Goa Act of 2012 stipulates the provision of maintenance for individuals entitled to support from the estate of the deceased, to be fulfilled by the estate's successor. Section 194 of the Act grants the disinherited heir the right to apply for maintenance from

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<sup>19</sup> *Ibid.*

<sup>20</sup> Criminal Revision Application No. 05 of 2021, High Court of Bombay at Goa, accessed on <https://supremetoday.ai/doc/judgement/00400067151> and last viewed on 25.01.2025.

<sup>21</sup> *PORTUGUESE CODE OF CIVIL PROCEDURE, 1939*. Government of Goa (2019, January) Indiacode. Retrieved December 3, 2022, from [https://www.indiacode.nic.in/bitstream/123456789/7234/1/ocrportuguese\\_code\\_of\\_civil\\_procedure%2C\\_1939.pdf](https://www.indiacode.nic.in/bitstream/123456789/7234/1/ocrportuguese_code_of_civil_procedure%2C_1939.pdf)

recipient of the asset, with the stipulation that the maintenance amount shall not surpass the income derived from the assets.<sup>22</sup>

### 3.4 Special legislations: the maintenance and welfare of parents and senior citizens act 2007

A special law for aged individuals was lacking; however, in 2007, the Indian Government introduced the Maintenance and Welfare of Parents and Senior Citizens Act, which took effect in the State of Goa on January 15, 2009. (Hereinafter referred to as “The MWPSA Act” for the sake of brevity). The MWPSA Act is the key legislation presently to safeguard the rights of the aged.<sup>23</sup> The present paper is more concerned with the said Act and its capacity to deal with the rising atrocities as against older adults in the State of Goa.

Major children and grandchildren, regardless of gender, are obligated to provide economical help to their parent and grandparents. The highest maintenance payable is Rs. 10,000/- (Rupees Ten Thousand Only) each month.<sup>24</sup> The maintenance application must be adjudicated within 90 days of the notification being served to the respondent. Each state must develop senior living facilities in every district to accommodate elderly inhabitants and parents. The State Governments must extensively publicize the rules of the statute through various media, like television, radio and print, to ensure public awareness.<sup>25</sup>

<sup>22</sup> *The Goa Succession, Special Notaries and Inventory Proceeding Act, 2012*, (Goa Act 23 of 2016). Indiacode. Retrieved December 3, 2022, from <https://www.indiacode.nic.in/bitstream/123456789/8314/1/ocrsuccession.pdf>

<sup>23</sup> Adhwaryu, P. R., & Vora, K. (2023). A SOCIO LEGAL STUDY ON CONDITIONS OF ELDER PERSONS LIVING AT OLD AGE HOMES IN INDIA. *Young Researcher*, 12(3), 10.5281/zenodo.10516260. <https://doi.org/10.5281/zenodo.10516260>.

<sup>24</sup>Section 9(2) of the Maintenance and Welfare of Parents and Senior Citizens Act 2007 stipulates that the maximum maintenance allowance that may be mandated by the Tribunal shall be determined by the State Government, not to exceed ten thousand rupees per month.

<sup>25</sup> Section 21 of the Maintenance and Welfare of Parents and Senior Citizens Act 2007 gives the measures for publicity, awareness, etc., for welfare of aged individuals.—

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.

According to Section 23 of the MWPC Act, any aged individual who, subsequent to the Act's coming into being, has conveyed property to an assignee with the stipulation that the assignee will furnish fundamental facilities and essentials for elderly individuals, may declare the transfer void if the assignee fails to fulfil the duty.<sup>26</sup> The Act was instituted to implement more efficient methods for the care and well-being of parents and older individuals. Nevertheless, it was deemed necessary to change it further to provide improved coverage regarding who should be maintained, who should perform the maintenance, and what the maintenance should encompass. Thus, an amendment Bill has been in the pipeline for a long time.<sup>27</sup>

In the case of **Ashwani Kumar v. Union of India**,<sup>28</sup> the Honourable Supreme Court of India, had laid down that “(1) *The Union should obtain necessary information from all the State Governments and the Union Territories about the number of old age homes in each district and file a Status Report.*(2) *The Union of India will also obtain from all the State Governments the medical facilities and geriatric care facilities that are available to senior citizens in each district and file a Status Report.*(3) *On the basis of the information gathered by the Union of India as detailed in the Status Reports, a plan of action should be prepared for giving publicity to the provisions of the MWPC Act and making senior citizens aware of the provisions of the said Act and the constitutional and statutory rights of senior citizens.* (4) *Section 30 of the MWPC Act enables the Government of India to issue appropriate directions to the State Governments to carry out and execute the provisions of the MWPC Act. The Central Government must exercise its power in this regard and issue appropriate directions to the State Governments for the*

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<sup>26</sup> Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act 2007 states that Transfer of property is 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.

<sup>27</sup> Thomas, S.E. Law and its discontents: ageing and Family Law in India. *J. Soc. Econ. Dev.* (2023). <https://doi.org/10.1007/s40847-022-00211-2> (last viewed on 01.02.2025)

<sup>28</sup>Writ Petition (C) No. 193 of 2016 (Supreme Court of India at New Delhi) available at <https://indiankanoon.org/doc/27374596/> (last viewed on 16.08.2023)

*effective implementation of the provisions of the MWPC Act. Alongside this, the Central Government must, in terms of Section 31 of the MWPC Act, conduct a review for the purposes of monitoring the progress in implementation of the MWPC Act by the State Governments.”*

In terms of Section 11 of the MWPCSC Act the maintenance order under the Act shall have the same force and effect as an order passed under Chapter IX of the Code of Criminal Procedure 1973 and shall be executed in the manner prescribed for the execution of such order by that Code.<sup>29</sup> Since the Code of Criminal Procedure Code 1973 is replaced by the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, the provisions of Section 144(3) of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 would now apply.

As per Section 144(3) of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 the Maintenance Tribunal may order imprisonment for a term of one month or till payment if the same is made earlier. Further in terms of Section 24 of the MWPC Act, if a Senior Citizen is abandoned then the person abandoning may face three months imprisonment or fine up to five thousand rupees or both.<sup>30</sup> But all the offences under the MWPC Act though cognizable are bailable.<sup>31</sup>

In the case of **Nafees and Others v. State of M.P and Another**,<sup>32</sup> the Hon’ble Madhya Pradesh High Court was faced with a case wherein the stepchildren had abandoned the stepmother aged 50 years and provisions of Section 24 of the MWPC Act were invoked. It was held that the Section 24 was only applicable to Senior citizens (aged 60 years and above) and thus it was observed that there were no grounds to proceed further.

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<sup>29</sup> 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.

<sup>30</sup> 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.

<sup>31</sup> 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.

<sup>32</sup> 2016 SCC OnLine MP 5855

In the case of **Bandra Holy Family Hospital Society and Another v. State of Maharashtra**,<sup>33</sup> the Hon'ble High Court of Bombay dealt with a case wherein the son failed to look after and care for his own ailing mother and prima facie came to a conclusion that the son had abandoned his mother. The Court further directed the Authorities to take appropriate action under Section 5 and 23 of the MWPC Act.

#### 4 DATA COLLECTION AND ANALYSIS

The State of Goa is presently divided into Two Districts i.e South Goa and North Goa and each District is further divided into Talukas. There are in total 12 talukas in the State of Goa.

The Talukas in South Goa are as follows:

- a. Salcete;
- b. Dharbandora;
- c. Mormugao;
- d. Sanguem;
- e. Canacona;
- f. Quepem;
- g. Ponda.

The Talukas in North Goa are as follows:

- a. Sattari;
- b. Bardez;
- c. Tiswadi;
- d. Bicholim;
- e. Pernem.

An act is effective only if the individuals for whose benefit the Act is passed are aware of the same. Unless the Act is published the aged individuals will not be aware of the same and the Act will only remain a toothless tiger. Apart from personally interviewing senior citizens to ascertain their awareness of the Act, another way would be to find out the number of cases filed by Senior citizens in the State of Goa from 15.01.2009 till 2024. The necessary statistics were therefore obtained from the

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<sup>33</sup> 2025 SCC OnLine Bom 4533

Maintenance Tribunals constituted in each taluka and the tabulated data is to be found hereinbelow.

**Table 1**

*Shows the number of cases filed in each Taluka from the year 2009 till the year 2024.*

Talukas	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Salcete	0	8	3	4	5	3	5	2	7	5	9	17	23	12	12	1
Dharbandora	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Mormugao	0	0	1	2	1	0	0	1	2	1	1	2	4	11	10	2
Sanguem	0	0	0	0	0	0	0	0	0	0	0	3	0	0	4	0
Canacona	0	0	1	0	0	0	1	4	0	0	0	0	1	2	2	1
Quepem	0	0	0	0	0	0	2	2	0	2	0	0	2	2	3	1
Ponda	0	2	0	0	0	0	0	0	2	2	2	4	2	2	1	6
Sattari	0	0	0	0	0	0	0	0	0	0	1	2	0	0	1	1
Bardez	0	0	0	0	0	0	0	0	0	6	3	7	8	12	8	9
Tiswadi	0	1	1	0	2	1	4	2	0	0	1	3	5	3	0	3
Bicholim	0	0	0	0	0	0	0	0	0	0	0	0	10	06	0	6
Pernem	0	0	0	0	0	0	0	0	0	0	0	0	4	1	4	6

The perusal of the aforesaid data would reveal that the number of cases each year in the respective talukas has been around 10 and the highest being 23 in the taluka of Salcete once in the year 2021.

**Table 2**

*Shows the total number of cases filed in each Taluka from the year 2009 till the year 2024.*

Talukas	Total from 2009 to 2024
Salcete	116
Dharbandora	1
Mormugao	38
Sanguem	7
Canacona	12
Quepem	14
Ponda	23
Sattari	5
Bardez	53
Tiswadi	26
Bicholim	22
Pernem	15

The perusal of the aforesaid data would reveal the total number of cases filed in each taluka from the year 2009 till the year 2024.

**Figure 1**

Shows the total number of cases filed in each Taluka from the year 2009 till 2024.

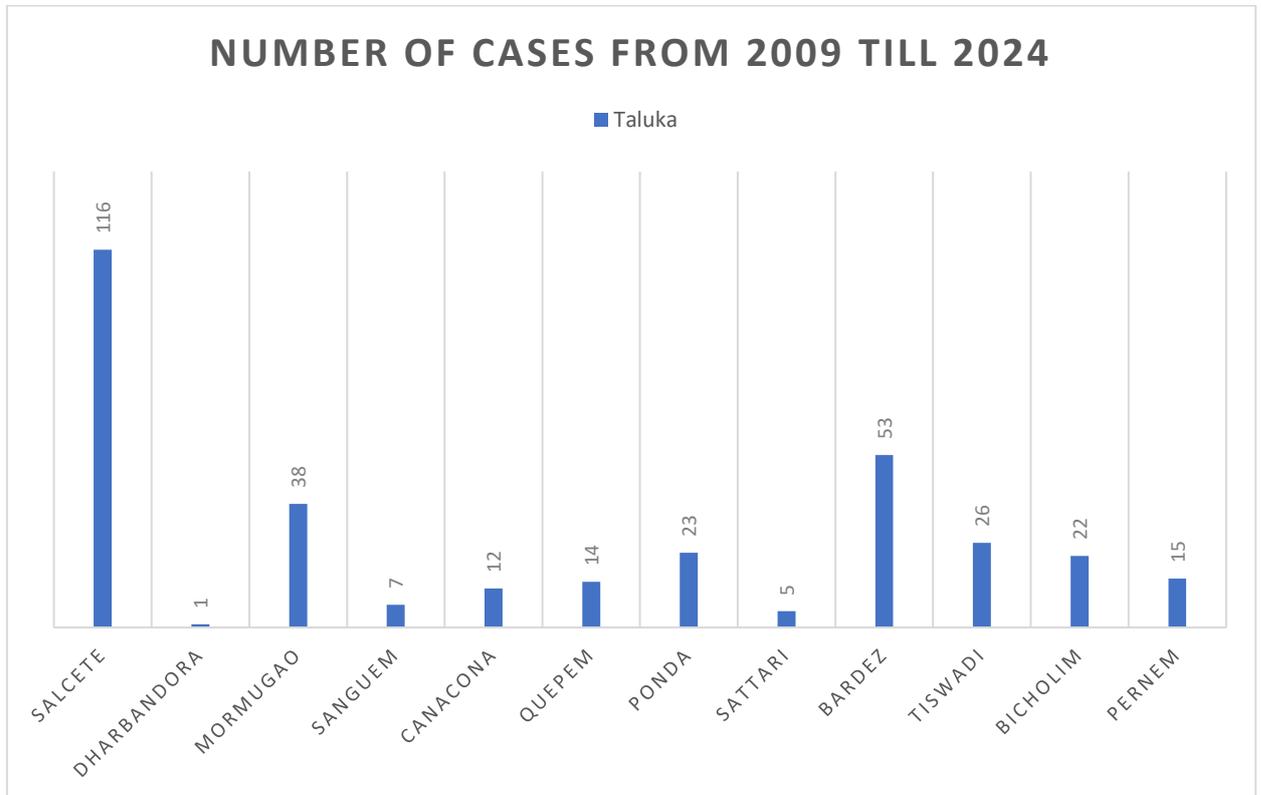


Diagram 1 reveals that the taluka of Salcete is in the forefront in the number of cases under the MWPSC Act.

**Table 3**

Shows the number of cases filed in each District from the year 2009 till 2024.

District	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
South Goa	0	10	5	6	6	3	8	9	11	10	12	26	32	29	32	12
North Goa	0	1	1	0	2	1	4	2	0	6	5	12	27	22	13	25

The perusal of the above table 3 would show that the highest number of cases which were filed in the District of South Goa was 32 and the same was in the year 2021. Further the highest number of cases which were filed in the District of North Goa was 27 and the same was also in the year 2021. The graphical representation via a bar graph of the same table 2 is to be found below.

**Figure 2**

*Shows the number of cases filed in each District from the year 2009 till 2024.*

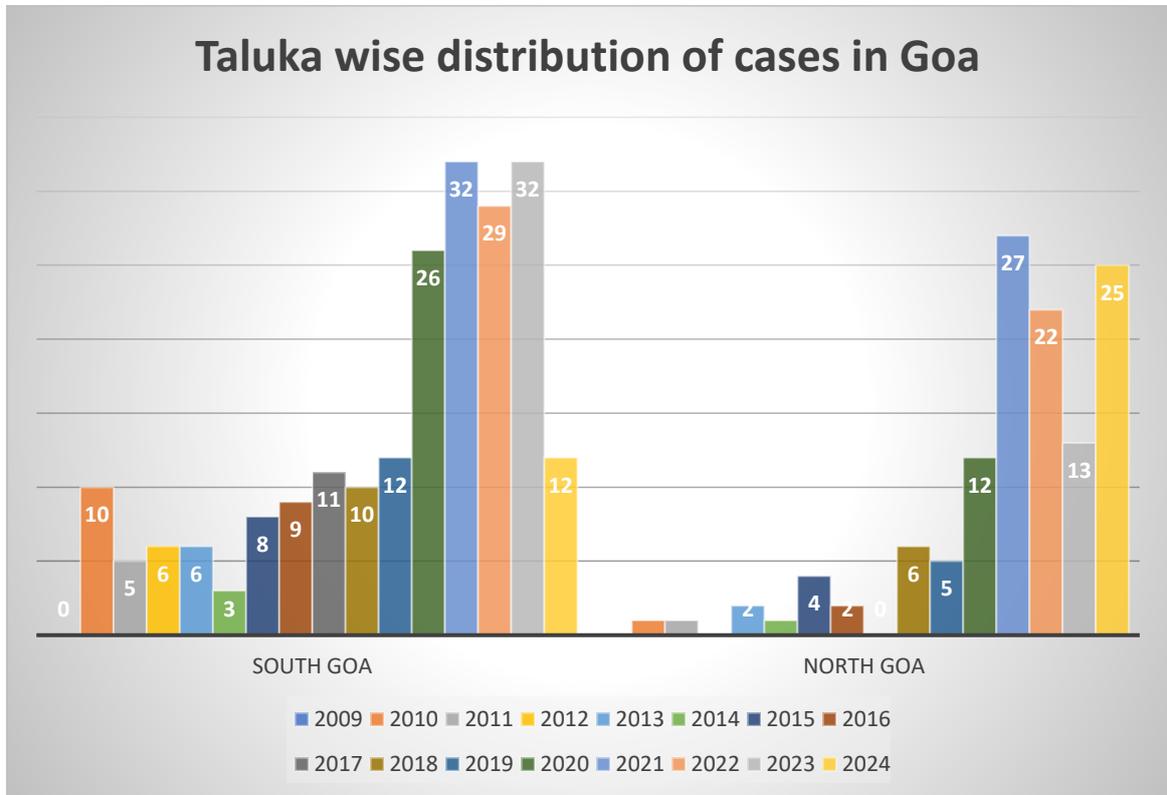


Diagram 2 reveals that the highest number of cases were filed in South Goa in the years 2021 and 2023.

**Table 4**

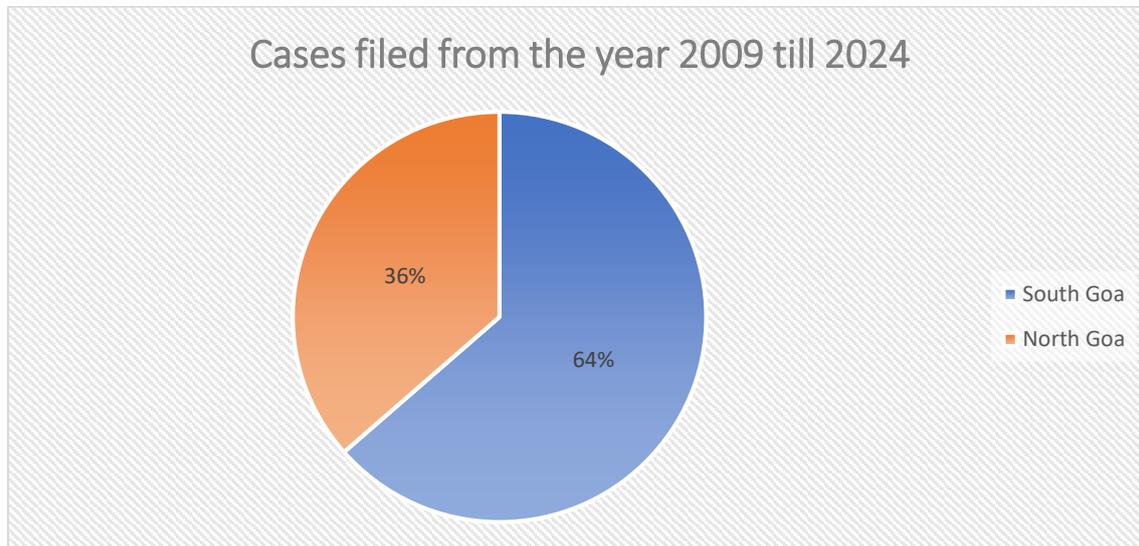
*Shows the total number of cases filed in each District from the year 2009 till 2024.*

District	2009 till 2024
South Goa	211
North Goa	121

The perusal of the above table 4 would reveal that the cases under the Act were filed more in the District of South Goa than in North Goa. The graphical representation via a pie chart of the same table 4 is to be found below.

**Figure 3**

Shows the share of total number of cases filed in each District from the year 2009 till 2024.



## 5 DISCUSSION

The data analysis over time of the cases filed before the Maintenance Tribunals in the State of Goa would indicate that the volume of cases has gradually increased, which leads to the conclusion that the Criminal Laws are not acting as a good deterrent. The taluka of Salcete is leading the race in the number of cases filed from the year 2009 till 2024 i.e 116. The taluka of Dharbandora however is the taluka with the least number of cases till 2024 i.e only one.

**Table 5**

*The reply to the research questions.*

Research Questions	Reply
Whether the cases as regards non maintenance of parent and aged individuals are increasing in the State of Goa.	The number of cases under the MWPSA Act 2007 as regards non maintenance are gradually increasing in the State of Goa.
Whether the criminal laws have acted as a deterrent so as to reduce inequalities.	The number of cases filed in each Taluka would to some extent show that the criminal laws are not a good deterrent.
Is the increasing number of cases by Parents and Senior Citizens under the MWPSA Act an indication of the fast-growing awareness of the MWPSA Act amongst Parents and Senior Citizens in Goa?	The number of cases have been increasing from the year 2009 which is indicative that the awareness of the MWPSA Act amongst Parents and Senior Citizens in Goa.

## 6 CONCLUSION AND SUGGESTIONS

Historically, individuals in Goa have maintained a high degree of secrecy over their personal lives, particularly concerning financial independence, a trend that persists to this day.

Although approximately 55 percent of the elderly in Goa have experienced physical abuse,<sup>34</sup> the number of cases which have been filed from the year 2009 till 2024 does not appear to corroborate this statistic. The logical inference is that the Senior Citizens may not be approaching the Court because they are scared that the punishment would not act as a deterrent to their children, grandchildren or relatives. Further, though the number of cases from the year 2009 till 2024 does not tally with the statistics reported in the Newspaper, it still shows that there is an increasing trend. This increasing trend would imply that the children, grandchildren and relatives are not deterred by the punishment provided under the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 and the MWPSC Act.

The circumstances of the aged will continue to deteriorate without sufficient care and support, exacerbating the disparity between them and the broader community leading to not being able to achieve the Sustainable Development Goal No. 10 thereby not being able to reduce inequalities.

### 6.1 Suggestions

#### 6.1.1 Legal suggestions

**Need for amendment to the MWPSC Act to make the punishment more stringent:** The punishment provided under the MWPSC Act should be more stringent so that it can act as a deterrent to the commission of offences as against Senior Citizens. The imprisonment of one month for unpaid maintenance and three months for abandonment are not acting as a deterrent and thus should be increased. Further the offences should be made non-bailable.

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<sup>34</sup> O Heraldo. (2023, June 15). *Over half of Goa's senior citizens have been physically abused*. Herald Goa. <https://www.heraldgoa.in/Goa/OVER-HALF-OF-GOA'S-SENIOR-CITIZENS-HAVE-BEEN-PHYSICALLY-ABUSED/206173>

### 6.1.2 General suggestions

**Need to spread Awareness of the MWPSA Act:** It is imperative to promptly promote and disseminate the contents of the Act utilizing advanced technologies and social outreach initiatives. The advertisement through genuine social outreach programs is crucial, as the primary beneficiaries, namely the elderly, may not receive the advantages of publicity if it is conducted solely through technology. Senior citizens typically lack technological proficiency, making it challenging for them to navigate social media platforms; yet advertising through newspapers and social events could be highly effective.

Moreover, it is insufficient for the real beneficiaries to possess awareness; the children, grandchildren, sons-in-law, and daughters-in-law must also be informed of their obligations under the Act. Students in schools and young adults in universities should be informed about the requirements of the Act through their curriculum to instil foundational knowledge at an early age.

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**Authors' Contribution**

All authors contributed equally to the development of this article.

**Data availability**

All datasets relevant to this study's findings are fully available within the article.

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