



Dissertation On

Legal analysis of Parents Maintenance Act, 2013 .

Submitted To:

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Letter of Transmittal

To
Md. safiullah
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Subject: Legal Analysis of Parents Maintenance Act, 2013.

Sir,

It's a great pleasure for me to submit Legal Analysis of Parents Maintenance Act, 2013. While preparing this research Monograph Paper I have attempted my dimension best to keep up the required Standard. I trust that this examination monograph paper will satisfy your desire.

I, along these lines, supplicate and Hope that you would be sufficiently benevolent to this exploration paper for advancement.

I constantly accessible for any further illumination for any piece of this examination paper whenever the timing is ideal .

Thank You

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Certification

This is to certify that the dissertation report on freedom of expression: An Appraisal is done by Amena Pervin (ID-151-26-791) in partial fulfillment of the requirements for LL.B (Hon's) degree from the Daffodil International University. The dissertation report has been carried out my guidance and as a record of the bona fide work carried out successfully.

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Declaration

This is **Amena Pervin, ID NO- 151-26-791**, a regular student of Daffodil International University, I hereby do solemnly declare that the work presented in this dissertation report has been carried out by me and has not been previously submitted to any other institution.

I undertake to indemnify the University against any loss or damage arising from breach of the foregoing obligations.

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As a matter of first importance, I wish to recognize the limitless effortlessness and propound consideration of the Almighty Allah, I offer my gratitude to my vital paper director Md. Shafiullah, Senior Lecturer of Daffodil International University for permitting me the opportunity to complete my theory report under his supervision. He gave me his significant time and vital data to finish the paper report. Without his appropriate direction it was very inconceivable for me to finish the thesis.

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I used a day and forever the Daffodil library and computer lab to complete my research monograph, so I am grateful to the authority of library and computer lab.

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ABSTRACT

This report joins the present thinking and practice on human rights based philosophies in the preparation division. In 2013 Bangladesh Government ordered a welfare law named 'The Parents Maintenance Act 2013'. There were numerous conceivable explanations for this. Two of them are; so as to guarantee government managed savings of the senior natives and to confront the worldwide populace maturing issue. Worldwide populace maturing structure has been reshaping in late decades because of consolidated impact of decrease fruitfulness and expanded future. Accordingly, elderly populace are expanding essentially contrast with the youthful. As the twentieth century, populace maturing and its social and financial outcomes are drawing expanded consideration from strategy producers' around the world. Bangladesh is additionally worry to confront the test and secure the correct upkeep of elderly in 2013 Bangladesh government moved these duties through the law, making grown-up youngsters in charge of support of their elderly guardians. This article difficulties the supposition of advantage from the Parents Maintenance Act, 2013 to confront the expanding populace maturing issue in Bangladesh.

Initially, this paper will speak to a few explanations for not giving appropriate consideration/upkeep to elderly populace by their kids or youthful.

Also, it will demonstrate a review of Parents support Act 2013.

Thirdly, it will feature a few constraints and clear negative effect of the demonstration. Fourthly, this paper will endeavor to demonstrate a few encumbrances of the method for progress from this Act.

In taking everything into account, Paper will attempt to examination of this demonstration in the challenge of Bangladesh. Ought to there be a law, talk about through the encounters from various nations, how far it will be profited for elderly guardians, kids and the legislature in a long haul.

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Chapter 1

Introduction

1.1. Introduction

In like manner expressing the word 'maintenance' implies the demonstration of supporting. When we happen upon the term support in connection to the family structure, we just will in general consider spouse offering upkeep to his significant other after their separation has occurred so as to affirm that the wife drives her existence with around same way of life which she used to appreciate when she was hitched. In the more seasoned occasions, after the finish of 50 years of life, one needed to isolate oneself from the duties of a 'families' and change over to the third phase of human life which alluded to the dedication of the following 25 years of life by the sacrificial administration of the enduring mankind and the bigger society consequently to the administrations got frame society amid the initial 50 years of life. Individuals used to think about seniority as the age to rest and unwind and spend whatever remains of their lives calmly. Be that as it may, the youngsters didn't take care of their folks as a trouble and weight on them. The matured individuals confront various issues. The ethical obligation to keep up guardians by their kids is perceived morally. So as to give equity to these individuals, Bangladesh lawful framework has given some help by which if a circumstance comes where guardians have not way out can utilize the device of 'Support' so as to meet their essential necessities for survival. In 2013 it has been presented a welfare law named The Parents support Act, 2013. As indicated by this Act, guardians will get cure from any unreasonable obstruction in regards to living pace and for not giving upkeep from their kids, except if the guilty party will be rebuffed by the Act.¹ This paper will endeavor to break down that this law is a poor law and seven days approach to confront the expanding populace maturing issue. In addition it will appear, by this law government moved its social obligations to the resident. Along these lines, to confront this developing maturing issue with destitution, joblessness and absence of therapeutic consideration Bangladesh government needs to design a legitimate arrangement. Basically to the general individuals the law which guarantees the upkeep of the unfortunate casualty guardians by rebuffing at risk youngster appears to be incredible. In spite of the fact that legislature is socially mindful to dealing with them anyway which is a social need in other nation is a lawful requirement in a creating nation through the poor law. By and by the inquiry is how far it carries way out with this joblessness and a few issues and with the weight of the protected duty forced to the general population through this Act? This paper is an attempt to examination of the Parents Maintenance Act, 2013. The paper likewise difficulties the accepted accomplishment of the Act in Bangladesh point of view.

¹ <https://www.familylawpartners.co.uk> > December 5 2018

1.2. Background of the Study:

In Bangladesh individuals are regarded by the family, society. Anyway because of some different financial reasons, the conventional qualities and traditions and in addition family bonds are relaxing up now daily. Because of corruption of good qualities, the more youthful populace considers the experience and learning of elderly is antedated. Today as a rule more youthful are never again prefer to live with elderly. Of course ongoing social changes, for example, urbanization, relocation and expanded female work constrain support imply that age of a family may live in better places due to their since the work put are most normally brought together in the capital city. Thus, the conventional joint families structures have separated and also the familial help to the elderly have been decreased astoundingly. Under the above conditions elderly individuals particularly in poor families have been tossed into financial frailty. Likewise, the nonattendance of social insurance offices is another main consideration that added to their enduring since maturing welcomes new medical issues. Here the female elderly are most powerless as far as financial state of the nation subsequently they should confront hopeless circumstance in future because of maturing. To confront the high costs of life driving cost now daily's female are constrain to go out for work who were the parental figure to the elderly in past period. Thus, nobody remain to dealing with elderly, while more often than not elderly needs to dealing with kids without their folks. Also, Lack of business chances of child/little girl is one of the significant reasons for unfit to give the correct upkeep to their folks. What's more, life driving costs expanded with the time, hence to keep up monetary help for the family come about by absence of financial dissolvability. Elderly individuals turn into the weight to the family too. This is on the grounds that the Act forced the support of guardians as well as the following four grandparents without father and mother.²

1.3. Conceptual Understanding:

From the simple minute a tyke is considered its prosperity and welfare turns into the most extreme worry of the guardians and they commit their time, cash and vitality for appropriately raising their youngster. With the progression of time they become more established and the obligation is basically given occasion to feel qualms about the kids to deal with their folks.

Under the Mohammedan Law the kids who have implies will undoubtedly keep up their folks. A hindu child is under an individual commitment to keep up his matured guardians. In any case, it is extremely tragic that all the time the posterity get occupied with their own life and expert life which results in maltreatment, disregard and surrender of the elderly guardians. Numerous kids leave their folks in the guardians care and don't speak with them. Before the establishment of guardians upkeep Act 2013 , to state in other way the Maintenance of Parents Act, there was no explicit legitimate structure to bring any lawful activity for support against the kids. In any case, they could start claim under area 5(d) of the Family Court Ordinance 1985 for support. It was seen on account of Jamila Khatun Vs.

² [dspace.bracu.ac.bd:8080/.../Perception%20and%20practices%20of%20fatherhood%20a](https://space.bracu.ac.bd:8080/.../Perception%20and%20practices%20of%20fatherhood%20a) > December 5 2018

Rostom Ali " revealed in 48 DLR (AD) 110 that "under Mohammedan Law youngsters in simple conditions will undoubtedly keep up their poor guardians, in spite of the fact that the later might have the capacity to win something for themselves. These poor guardians may likewise record a suit in the Family Court for support from their rich kids under the Ordinance of 1985". Be that as it may, organization of claim by guardians for support under the Ordinance against their issues has not been in wide practice as the arrangement has not been completely engrafted in that. ³

1.4 Significant of the Study:

The basis or noteworthy behind the investigation of this concerned topic is exclusively the enthusiasm of the explores similar to the understudy of relative family law; notwithstanding that as the pertinent demonstration in this examination as being instituted in 2013, there ought to be corrections as articulated in the part of proposal toward the finish of research paper.

1.5. Research Objective:

This exploration think about means to learn the real Impact of the upkeep of the guardians in 2013 on family related viciousness over guardians and youngsters amid the time of unwinding. Close to the evaluation this investigation points -

1. To build up specific goals for the better adequacy of this creating demonstration.
2. To make the examination of this demonstration thinking about upkeep of the guardians and ensure the correct support for guardians.
3. To concentrate on the family brutality that the amount it was helpless against our nation in the current circumstance.

1.6. Research question:

The scientist in this scholarly research needs to take care of the issue identifying with these issues

- What is the meaning of Maintenances?
- Do the guardians need to be natural guardians to request upkeep? Could receptive and step-guardians likewise request bolster?
- Can document an upkeep application against in excess of one youngster or relative?
- Is there need any adjustment in upkeep act must incorporate i.e. suggestion?
- If my folks have recorded an upkeep application against a solitary tyke, can likewise include another kid?

³ Law teachers, Effectiveness of the Legal Provision, [<http://www.lawteacher.net/family-law/essays/effectiveness-of-the-legal-provisions-law-essays>. December 8 2018

1.7 Research methodology:

The primary sources of this examination are to watch the draft of the Act, tradition, laws and so on. The cases are numbering truly in poor due to word constraint other than for the inside and out examination of the effect of the guardians support act 2013.

The secondary sources of this exploration is to investigate articles, books, tapping sentiment of the judges. It incorporates information and data too a few archives from different reports of various associations, government reports, and distributions by various organizations, web productions, assorted every day and cyclic paper and remarks from work force of various callings.

This investigation has additionally kept up poll for various dimensions of people including legal advisers, police, injured individual supporters, field officers, diverse government and non-government associations, distinctive task holders and casualties of a decent number.

Also, consequently this exploration strategy permits the need of usage of this demonstration in regards to the worthlessness of other existing laws against brutality against ladies, particularly in family related issues.

1.8 Limitations of the study:

At the season of finishing my exploration I have looked with a few issues. These are-

- This examination does not cover the entire upkeep of Parents.
- Due to abbreviate of time that is the reason I just spotlights on the primary issues identifying with it.
- The restriction of the examination lies in the decision of procedure. I was very confounded about on which technique will be useful for me.

Chapter 2

Conceptual Framework: Parents rights

2.1 Basic concept:

From the very moment a child is imagined its prosperity and welfare turns into the most extreme worry of the guardians and they dedicate their time, cash and vitality for appropriately raising their youngster. With the progression of time they become more seasoned and the obligation is basically provided reason to feel ambiguous about the youngsters to deal with their folks. Under the Mohammedan Law the kids who have implies will undoubtedly keep up their folks. A hindu child is under an individual commitment to keep up his matured guardians. In any case, it is extremely shocking that frequently the posterity get occupied with their own life and expert life which results in maltreatment, disregard and relinquishment of the elderly guardians. Numerous youngsters leave their folks in the guardians care and don't speak with them.

Before the authorization of Parents support act, 2013, to state in other way the Maintenance of Parents Act, there was no explicit lawful system to bring any legitimate activity for upkeep against the youngsters. However, they could start claim under area 5(d) of the Family Court Ordinance 1985 for support. It was seen on account of Jamila Khatun Vs. Rostom Ali " announced in 48 DLR (AD) 110 that "under Mohammedan Law kids in simple conditions will undoubtedly keep up their poor guardians, in spite of the fact that the later might have the capacity to procure something for themselves. These poor guardians may likewise record a suit in the Family Court for support from their extravagant kids under the Ordinance of 1985". In any case, organization of claim by guardians for upkeep under the Ordinance against their issues has not been in wide practice as the arrangement has not been completely engrafted in that. Considering every one of these parts of guardians' support the parliament has established Parents upkeep act 2013 cherishing the legitimate commitment with respect to the kids to keep up their folks and grandparents with punishment and discipline for neglecting to do as such.⁴

2.2 Apparent Negative Impact of the Act:

Numerous nations on the planet have encountered the guardians care law. Some of them have well and some of them have terrible experience too. Aptitude's perspectives are not constantly positive about this arrangement. In Parents Maintenance Act have a few escape clauses that may welcome the negative involvement in Bangladesh moreover. There is no commitment throws on the state government to set up seniority home after the Act. On the other hand, maturity stipend program in 2011-12, was 2.47 million recipients for month to month 300 taka payable in like clockwork, where the destitute is about 1.30 crore in Bangladesh.⁵ The measure of cash contrast with the ongoing life driving expense is so less. In addition elderly

⁴ Francine Rossuo, Caring for Aging Parents: Should There Be a Law?,
[<http://healthland.time.com/2013/07/22/caring-for-aging-parents-should-there-be-a-law/>], Last visited
December 4 2018

⁵ The Prothom Alo, 20 November, 2013

need to convey therapeutic costs moreover. To get this little measure of cash which ought to be expanded, applicant needs to defeat a lot of conditions by the Government. In the Act, there is no explicit arrangement how to disperse the measure of pay to the guardians in the event of infringement of the Act by the kid. It relies on the watchfulness of the court. Or on the other hand no welfare strategy for elderly pursued by this. As per this Act no gripe will be permitted with the exception of dad and mother.⁶ There is no alternative on the off chance that they are unfit for sake (approved by him/her) application as like the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 in India.⁷ In addition, the Act does not clarify the grumbling methodology for grandparents. As per Muslim family Law Ordinance 1961, Maintenance ought to be paid by the spouse if any sum payable under this law, not paid in due time, will be recoverable as unfulfilled obligations of land income Nevertheless, there is no punishment by this arrangement if husband are not giving the support of the kid. The demonstration does not clear up the circumstance when guardians didn't satisfy their due parental commitment, is the youngster can decline to pay the support to the guardians or not? In Indian case Pandurang Baburao Dabedhe v. baburao dabedhe , court pronounces to pay the maintainence in such situation when the guardians were not capable but rather the youngster is monetarily capable. In mahendra Kumar Gaikwad v. Gulavi ,one of the contentions that the respondents' child against the candidate mother was that the parent had not released their obligations towards him appropriately and along these lines they had relinquished their entitlement to guarantee support from him. The court notwithstanding, requested him to pay upkeep. Moreover the Act doesn't clarify the progression mother's rights from the law. In this manner, the dads duty to the tyke referenced in law is less stressed Compare to kid obligation. Henceforth kids turn out to be increasingly subject as indicated by this Act.

2.3 Benefit from the Act:

To confront the worldwide developing maturing populace, each nation has made some important strides. This issue will be all the more trying for creating and immature nations. In the same way as other of them Bangladesh as a creating nation is attempting to change an answer by interdisciplinary route as opposed to taking duties of elderly individuals like created nations.⁸ The Act will make obligated of kids then again government discharges some weight of taking consideration to elderly populace according to sacred duty. Bangladesh has different creating factors still to defeat, for example, joblessness, neediness, non-sterile condition for elderly populace, absence of restorative consideration offices, settlement shortage, and low reviewed way of life and so on.⁹

⁶ Elderly Population, Bangladesh Bureau of Statistics

⁷ Section 5,

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

⁸ Elderly Population, Bangladesh Bureau of Statistics

[<http://www.bbs.gov.bd/PageReportLists.aspx?PARENTKEY=41>

⁹ Bulletin of World Health Organization, [<http://www.who.int/bulletin/volume>

2.4 Short comes of this act:

The Act manages just regular or organic guardians and kids however has not clarified whether the receptive, cultivate and step guardians and kids falls inside the domain of the Act. Yet, in India Maintenance and Welfare of Parents and Senior Citizens Act 2007 extraordinarily incorporates assenting and step guardians and kids in the Act. So there ought to be determination in such manner.

There are no arrangements of request of break support for the guardians to be paid amid the pendency of the suit. Yet, in India under area 5(2) of the Maintenance and Welfare of Parents and Senior Citizens Act 2007 the court may arrange youngsters to give a month to month recompense as a between time support of senior subjects and guardians. In this way, the Pita Matar Voron Poson Ain 2013 ought to be corrected to give comparative arrangements in Bangladesh.¹⁰

The Act manages matured guardians who have kids and the grandparents who have grandkids however stay quiet about the matured individual who don't have any youngsters or grandkids and excessively down and out, making it impossible to have supper trice multi day . The help given by the State to such poor person individuals right presently isn't do the trick. In this manner, arrangements ought to be consolidated in the Act to give month to month upkeep to such individuals from the State finance.

Another imperfection of the Act is that Cognizance of the court under the Act has been made contingent in that segment 7 stipulates that no court will take perception of the offense under the Act with the exception of upon a dissension documented by the guardians or upon a protestation composed by the guardians. There might be situations where the guardians may be uneducated or may not be in a situation to document the grievance themselves. Hence, the necessity of recording grievance by the guardians themselves ought to be struck out and arrangements ought to be changed to empower any individual or association to establish case under the Act for such guardians.

¹⁰ ncpcr.gov.in/showfile.php?lang=2&level=1&&sublinkid=1229&lid=1474

2.5 Experiencing Other Countries:

The Act has not given any extraordinary outcome to preliminary of the offense for guaranteeing expedient equity and powerful basic leadership under the Act which are remarkable highlights of a Special Act. In India and Singapore Special Tribunals have been established to manage the support of guardians and senior national. Along these lines, arrangements ought to be joined in the Act accommodating expedient and exceptional method of preliminary.¹¹ No arrangement has been cherished in the Pita Matar Voron Poshon Ain empowering the court to give cash to the injured individual to be acknowledged from the charged under the Act. In this way, explicit arrangements ought to be embedded in the Pita Matar Voron Poson Ain to give cash to the guardians to be acknowledged from the blamed by path for punishment.¹²

In India, as indicated by segment 9 of the Maintenance and Welfare of Parents and Senior Citizens Act 2007, the Tribunal may arrange for month to month recompense to be paid to the guardians however there is no arrangement in the Pita Matar Voron Poson Ain 2013 empowering the judge to make such request which ought to be the primary cure under the Act. Thus, consideration ought to be given to embed such arrangements in the Act. In the event that the proposals made above are consented to the Pita Matar Voron poson Ain 2013 will, as I would see it, be the thorough Act for guaranteeing sheltered and cheerful existence of the matured guardians and great guardians.

¹¹ Sec 4, 5, 6, 10(3) ,

The Smoking and Tobacco Products (Control) Act 2005

¹² Adv. Shiraj Pramanik, Pita-matar voronposhon baddhotamulok kore Ain er Bissleson, The Daily Prothon Alo, 07 October 2013

Chapter 3

Prompt of The Act.

3.1. National platforms:

The best practice is seen in giving Old Age stipend by the Peoples Republic of Bangladesh. The National Policy for Older Persons 2013 was embraced by following the standards of MIPAA. What's more, along these lines, directly an aggregate number of 2700000 more established people have gone under these security nets. There are different measures too. They are authoritatively pronounced as "Senior Citizen" and an ID card will be given to them to different chances. The way toward giving card is progressing. Separated of the usage of MIPAA the social standards and estimations of the nation is to help, regard and care the more seasoned people.

Equity and non-segregation is guaranteed in the constitution of Bangladesh in spite of the fact that it isn't drilled in every one of the circles of the general public. Still some segregation dependent on sexual orientation race is found however mindfulness level has been expanding to a huge degree. Additionally the national law is a shield to the privileges of the more established people.¹³

1. Government and NGO activities in Bangladesh:
2. Retirement Pension Benefit since 1925
3. Maturity Allowance Program' since 1998
4. National Policy on Older Persons – 2013
5. Support of Parents Act – 2013
6. MSS in Gerontology and Geriatric Welfare under Dhaka University
7. Service: Social Welfare; Health and Family Welfare; National Committee on Aging
8. NGO: BAAIGM, RIC, BWHC, FREB, SWBF

¹³ <https://www.banglajol.info/index.php/BIOETHICS/article> acceded on december 4 2018

3.2. Non-Governmental Organization (NGO):

NGOs are typically financed by gifts, yet some evade formal subsidizing by and large and are run basically by volunteers. NGOs are exceptionally various gatherings of associations occupied with an extensive variety of exercises, and take diverse structures in various parts of the world. Some may have altruistic status, while others might be enrolled for expense exclusion dependent on acknowledgment of social purposes.

The Government of the People's Republic of Bangladesh has built up Bangladesh NGO Foundation to help the NGOs, with a view to relate the Non-Governmental Organizations during the time spent accomplishing Millennium Development Goal. The Foundation was built up through a Resolution of the Government on 02 December 2004 that was distributed in the Bangladesh Gazette on 11 December 2004.¹⁴

The FOUNDATION was then enlisted a non-benefit relationship inside the significance of Section 28 of the Companies Act, 1994 and is built up for financing Non-Governmental Organization (NGOs) and other deliberate associations including Community Based Organizations (CBOs) properly enrolled under the applicable laws of Bangladesh and working in the nation for giving essential social administrations, for example, training, nourishment and wellbeing, sanitation bolster, safe drinking water, natural assurance and some other administrations required by poor people, the guardians, ladies and kids and the ethnic minorities.

The fortifying of the OPAs – through the expanded limits at neighborhood (and territorial, and national) level has demonstrated the potential advantages of neediness decrease measures among this area of society and the positive clinical and psychosocial effects of assembly of this populace into engaged Associations.

RDRS began its exercises by giving post-administrations to the poor from there on. The time of 1990s experienced war recovery administrations and supporting foundation devel-huge changes in the political structure, and detectable opment in the north-west area and BRAC.

¹⁴ www.ngofoundation.org.bd > acceced 3 december 2018

3.3 Parents Maintenance Act 2013 and Senior Citizens Act 2007 of India comparative analysis:

1. There is no denying that from the minute we are conceived, we are reliant on our folks. They enclose us by their shawl of powerful and unqualified love and sustain us to adulthood with the best of all that they can manage. At that point, the table turns. While the youngsters move into the working age gathering, the guardians move into the resigned age gathering, and there comes when guardians wind up subject to their kids. Sadly, a significant number of us neglect to give the adoration and love to our folks when they are at their helpless maturity. Such circumstance has happened so often that even the Bangladesh Parliament wanted to mediate, and consequently came the Parents Care Act 2013 of Bangladesh (the '2013 Act').

2. Be that as it may, our neighboring nation, India, is by all accounts in front of Bangladesh in handling this issue. The Maintenance and Welfare of Parents and Senior Citizens Act 2007 (the '2007 Act') of India manages the current issue . This article will endeavor to do a short similar examination between the 2007 Act of India and 2013 Act of Bangladesh.

3. Both 2007 Act and 2013 Act guarantee that the youngsters need to find a way to take care of their folks and give them maintenance¹. The 2007 Act characterizes support as arrangement for sustenance, dress, habitation, restorative consideration and treatment and the 2013 Act characterizes upkeep as arrangement for among others, nourishment, garments, home and therapeutic participation and treatment.

4. Under the 2013 Act every one of the kids should pay a sensible amount² of their aggregate pay consistently to their folks on the off chance that they don't live with their folks. The 2013 Act does not characterize with respect to what comprises a sensible sum. Also, youngsters should meet their folks consistently in the event that they live in isolated living arrangements. Besides, by no means are kids permitted to send their folks in old homes against their will³.

5. Both the 2007 and 2013 Acts permit wronged guardians to record bodies of evidence or make application against their youngsters on the off chance that they decay to help them. Be that as it may, when thought about, the 2007 Act is by all accounts more down to earth and successful than the 2013 Act.

6. Right off the bat, the 2007 Act incorporates receptive and step-guardians under the term guardians. Be that as it may, on account of the 2013 Act, it is just the birth-moms who are perceived as the mothers⁴. This denies the substantial segment of receptive and step-moms from being ensured under this Act, in spite of them sustaining the youngsters with adoration and friendship no less contrasted with the birth moms. Shockingly, the 2013 Act does not make a comparative refinement in the event of the dads. The meaning of dad incorporates any man who is father to the youngster. In spite of the fact that the definition is extremely ambiguous, it doesn't neglect to incorporate the supportive and step fathers to be ensured under the 2013 Act, not at all like on account of the moms.

7. Besides, the 2007 Act expresses that the application can be made by a parent, or, on the off chance that he is inadequate, by some other individual or association approved by him. Sadly,

there is nothing in the 2013 Act to propose who is qualified to bring a case under the 2013 Act. In the event that, it is just the guardians who are qualified for bring gripe under the 2013 Act, at that point the 2013 Act neglects to recognize the helpless position of the guardians, both monetarily and physically.

8. Thirdly, as indicated by area 5(4) of the 2007 Act, an application made by the guardians or the senior subjects ought to be discarded inside ninety days from the date of the administration of notice of the application. The 2013 Act makes no such arrangement. Taking into account that the potential prosecutors under the 2013 Act are individuals having a place with a defenseless age gathering, the 2013 Act ought to have made arrangements like that of the 2007 Act to manage cases under the 2013 Act in an expedient and financially savvy way.

9. In spite of the fact that from the beginning the 2013 Act is by all accounts precisely what was expected to guarantee care for the guardians, truly the 2013 Act should be revised before it can adequately fill the planned need. For example, certain key terms, for example, 'sensible sum' and 'father' should be cleared up. The 2013 Act likewise need to incorporate receptive and step moms under the meaning of moms.

10. Further, considering the defenseless age gathering of the people in question, arrangement should be made so cases including the guardians/senior residents are managed in a rapid and savvy way.¹⁵

3.4 Root causes of vulnerability:

Guardians are here and there mishandled by network and furthermore by the relatives. Because of expanding little estimated family elderly individuals are carrying on a side of the house. Elderly individuals currently are regularly living in segregation as other relatives are occupied with their own business and don't have enough time to go through with them. In this advanced life kids are living in urban communities for acquiring, or for instruction. Their folks live in independently in the rustic setup, and in this bustling life youngsters are not ready to visit their folks routinely.¹⁶

¹⁵ <https://www.vertexchambers.com/LawNotes/Parents>> fahmida islam pupil December

¹⁶ <https://www.banglajol.info/index.php/BIOETHICS/article> december 09 2018

Chapter 4

Behind the act

4.1 Constitutional approach:

Older parents have approach satisfactory nourishment, water, lodging, dress and social insurance, through salary, bolster from their families and the network, and their own independence and have the chance to work or approach different potential outcomes of acquiring pay.

They ought to have the capacity to take part in deciding when and to what degree they will quit performing work exercises. They ought to approach proper instructive and preparing programs. What's more, have the likelihood to live in safe situations that are versatile to their own inclinations and their consistently evolving capacities. They ought to have the capacity to live in their own home for whatever length of time that conceivable.

The legitimate privileges of senior subjects can be anchored by avowing there ideal to upkeep, which will help them anchoring money related security. Support is characterized in the Maintenance and Welfare of Parents Act as including "arrangement for nourishment, garments, home and medicinal participation and treatment".¹⁷

The Constitution of Bangladesh ensures the privilege to life and freedom of each person under Article 21. This has been deciphered to incorporate the privilege to live with nobility and would envelop the privilege to live with pride of the senior nationals. Article 41 of the Constitution rests that the State will inside the cutoff points of monetary limit and improvement make viable arrangement for anchoring the privilege to work, to training and to open help with instances of joblessness, ailment and disablement and in different instances of departure and disregard. Article 46 additionally forces a constructive commitment on the State to advance with exceptional consideration the monetary interests of the weaker segments of the general population and to shield them from social bad form and all types of misuse. Articles 41 and 46 are incorporated into the Directive Principles of State Policy which are not enforceable in any official courtroom; in any case, they force positive commitments on the State and are key in the administration of the nation.¹⁸

¹⁷ <https://factly.in/understanding-the-maintenance-and-welfare-of-parents-and-senior> >Dec 9 2018

¹⁸ <https://lawhelpbd.com/constitution/fundamental-rights-constitution-bangladesh> > Dec 9 2018

4.2 The Judicial Approach:

There were no appropriate laws for giving support to senior guardians or widow of the perished property holder. In *Narayanarao Ramachandra Pant V. Ramabai*, ILR (1879) 3 Bom 415, the privy chamber at the start distinguished the privilege to support of the old widow of the perished while there was no such arrangement made by the departed benefactor and furthermore passed the announcement which inhabited the old mother back in her significant other's property. By Section 20(1) of the demonstration, each Hindu child or girl is under commitment to keep up matured and sick parent. Guardians are qualified for support in the event that they can't look after themselves. The sum is controlled by the court contemplating the position and status of the gatherings.

In *K.M.Adam V. Gopalakrishnan* 1974 0 AIR(Mad) 232; 1973 0 Supreme(Mad) 339; Supreme court opined, *bury alia*, If the kid is a Hindu, regardless of whether the dad or the mother is a Hindu, it is qualified for case upkeep against him or her.

In *Kirtikant D. Vadodaria v. Territory of Gujarat*, incomparable court opined old and decrepit guardians are qualified for upkeep under this Act from their little girl same path as from child.¹⁹

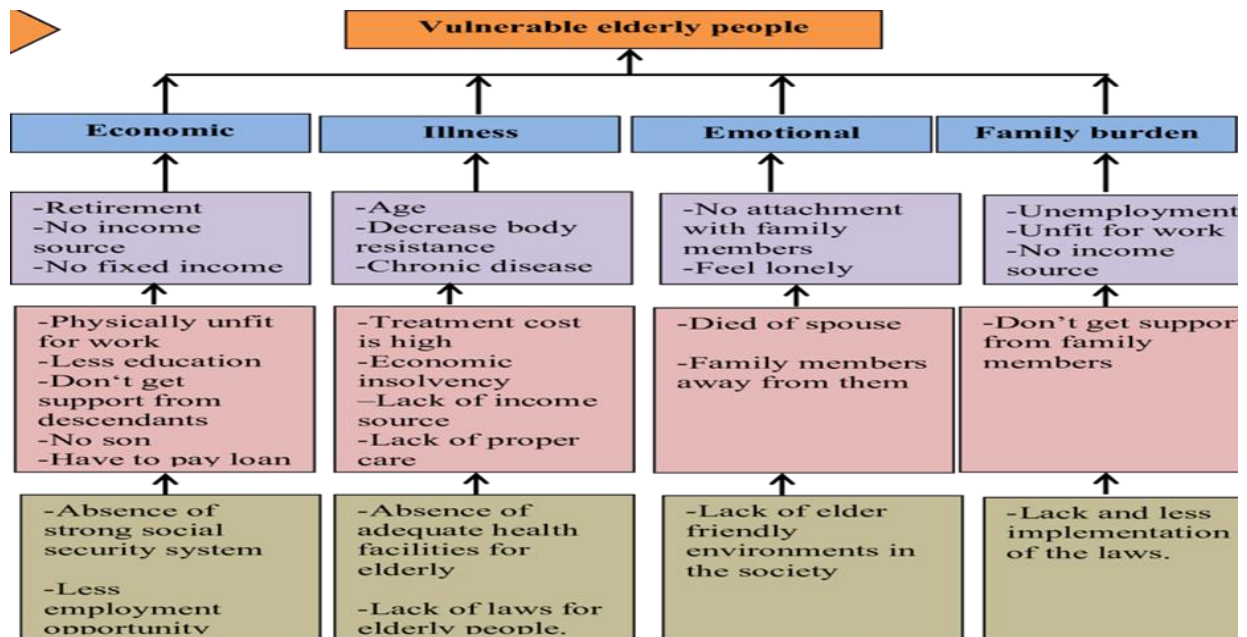
4.3 Present scenario in Bangladesh:

In Bangladesh because of enhanced personal satisfaction the quantity of individuals more than 60 years is expanding quickly. This ought to be viewed as a developing test as the elderly will have unique needs and require distinctive consideration giving administrations. Since Bangladesh does not have a social welfare framework there will be rivalry for deficient assets extraordinarily wellbeing and medicinal administrations. It is conceived that because of all the more elderly populace the statistic structure will experience a moderate change from the present pyramid structure. The developing pattern towards family unit or where youngsters live abroad will put the elderly guardians in an issue the money related and social help that is basic for them has not yet risen. The nourishment and wellbeing status of elderly individuals rely upon sufficient sustenance safe water, appropriate sanitation offices and keeping up clean gauges. To give extraordinary restorative consideration to the elderly there is a need to set up WHO prescribed Age-Friendly Primary Health Care focuses and separate wards/units are to be set up in the doctor's facilities. To lessen helplessness of more established ladies there is a need to appropriate resources and properties as indicated by the law. . Our new ages must be responsive, educated and mindful about their obligations and duties towards the elderly individuals. Taking appropriate consideration of the elderly is our moral obligation and duty.²⁰

¹⁹ <http://www.legalservicesindia.com/article/2506/Judicial-Approach-towards-the-Rights-of-Elderly-Persons.html> December 9 2018

²⁰ <https://www.banglajol.info/index.php/BIOETHICS/article/download/29303/19624> > accede December 9 2018

Table no 1:



4.4 Other laws Protect parents maintenance:

There have more laws which laws can be conduct the parent's right previously of made parents maintenance act. Which is very much poor for the conducting the parents right. And not be proper maintainable for their children. That then the given bellows...

4.4.1 Muslim laws:

Children have an obligation to keep up their matured guardians even under the Muslims Law. As per Mullah, Children in simple conditions will undoubtedly keep up their poor guardians, in spite of the fact that the last might have the capacity to acquire something for themselves. A child, however in stressed conditions will undoubtedly keep up his mom, if the mother is poor, however she may not be sick. A child, who however poor, is procuring something, will undoubtedly bolster his dad who wins nothing.

Agreeing the Tyabji, guardians and grandparents in impoverished conditions are entitled, under Hanafi Law, to upkeep from their kids and grandkids who have the methods, regardless

of whether they can gain their business. The two children and girls have an obligation to keep up their folks under the Muslim law. The commitment, in any case, is subject to their having the way to do as such. As this law is likewise an individual law, it is just relevant to individuals who practice Islam as their religion. There are no such arrangements with respect to Christians or Parsis in their own laws.²¹

4.4.2 Code of Criminal Procedure:

Section 125(1)(d) makes a man having adequate intends to keep up his folks in the event that they can't look after themselves. Such appeal to is documented in criminal court as it is given in Cr.P.C. this makes the procedure of alleviation similarly quicker contrasted with common methods. It is material to all, regardless of their religious confidence and religious influences, and incorporates new parents. This area has been translated by the Supreme Court in its decision in order to make girls and children, wedded or unmarried, similarly mindful to keep up their folks.

On account of Dr. (Mrs.) Vijaya Manohar Arbat versus Kashi Rao Rajaram Sawai And Anr 1987 AIR 1100, 1987 SCR (2) 331, the preeminent court properly seen that a wedded girl who is independent needs to give support to the dad or mother who don't have some other child. Likewise, the progression mother is similarly entitled for the upkeep as the dad. As per the sentiment given in Baban @ Madhav Dagadu Dange V. Parvatibai Dagadu Dange Anr.1978 0 CrLJ 1436 the articulation "mother" incorporates "receptive mother" also . Area 125(1)(d) of Code of Criminal Procedure, 1973 endeavors to bring every one of the subjects under the security of one enactment paying little mind to their religion.²²

For the individuals who did not have any youngsters were still out of the ambit of upkeep and were not secured by any enactment. The Maintenance and Welfare of Parents and Senior Citizens Act were passed to give upkeep support to elderly guardians and senior subjects. The Act sets up the Maintenance Tribunal to give fast and powerful alleviation to elderly people. Area 19 of the demonstration likewise commands the foundation of a seniority home in each region and accommodates the security of life and property of the guardians.

²¹ <http://www.legalservicesindia.com/article/>

²² <https://www.vakilno1.com/legal-news/landmark-judgments-2017-maintenance.html>

Chapter 5

Impact on parents this act

5.1. Positive impact of this act:

Established in 2013, the Maintenance of the Parents Act has effectively viewed as one of the contemporary and dynamic laws in Bangladesh. The law is extremely exact having just nine segments and involves lawful arrangements for looking after guardians. With the majority of its positive sides, be that as it may, the law isn't free from a few deformities. The principal case under this Act was recorded in November 2013 by a dad against his kids in Chandpur Magistrate Court. From that point forward various cases have been documented, yet pundits and rights activists have drawn consideration of the Government by pointing out the inadequacies and restrictions of the Act. The Government is yet to give careful consideration to enhance the law and encourage its legitimate usage.

There was no explicit legitimate structure to bring any lawful activity against the youngsters for guaranteeing upkeep of the guardians previously this Act. In any case, they could document claim under area 5(d) of the Family Courts Ordinance 1985 for support. It was seen on account of Jamila Khatun v Rostom Ali announced in 48 DLR (AD) 110 that "under Mohammedan Law kids in simple conditions will undoubtedly keep up their poor guardians, despite the fact that the later might have the capacity to win something for themselves. These poor guardians may likewise record a suit in the Family Court for upkeep from their lavish kids under the Ordinance of 1985." Traditionally, the children are mindful to manage the cost of nourishment and safe house to their folks and in addition deal with the other elderly individuals from their family. Be that as it may, in the Act of 2013, it is said both male and female youngsters are capable to keep up their folks (Section 2).²³

Notwithstanding, as indicated by this Act "Father" and "Mother" implies just natural ones and does exclude the progression guardians. This brings up issue if the progression moms or fathers are not entitled to upkeep by their progression kids. The Act stipulates that the guardians should live with their kids. In addition, each kid must give a sufficient/sensible sum for upkeep from their profit if the guardians don't live with the kids (Section 3). There remains uncertainty with regards to the assurance of the sum. The Act likewise referenced that any individual damaging any of the arrangements, will be liable to the most elevated discipline of one lakh taka. Falling flat which he/she will be at risk to the most astounding detainment of three months.

Under the Bangladesh Act of 2013, the offenses for giving no upkeep are cognizable, bailable and compoundable. Thinking about the idea of the offenses, Alternative Dispute Resolution (ADR) framework ought to be presented in this Act as the issues are simply family in nature. taking a gander at the positive parts of the Act it tends to be vouched that, if the Act is legitimately altered and executed, it will bring welfare to numerous shocking guardians of our nation.

²³ nhrc.portal.gov.bd/...bd/.../International%20Covenant%20on%20Economic.

5.2. Negative Impact of the Act:

Numerous nations on the planet have encountered the guardians care law. Some of them have well and some of them have terrible experience too. Ability's perspectives are not constantly positive about this arrangement. In Parents Maintenance Act have a few provisos that may welcome the negative involvement in Bangladesh too. There is no commitment throws on the state government to set up seniority home after the Act. On the other hand, maturity remittance program in 2011-12, was 2.47 million recipients for month to month 300 taka payable in at regular intervals, where the poor is about 1.30 crore in Bangladesh. The measure of cash contrast with the ongoing life driving expense is so less. In addition elderly need to convey restorative costs moreover. To get this little measure of cash which ought to be expanded, applicant needs to beat a lot of conditions by the Government. In the Act, there is no explicit arrangement how to circulate the measure of pay to the guardians in the event of infringement of the Act by the youngster. It relies on the circumspection of the court. Or then again no welfare approach for elderly pursued by this. As per this Act no gripe will be permitted aside from dad and mother. Despite the fact that in our general public by and large dad are viewed as increasingly at risk to pay his tyke upkeep instead of a youngster. As indicated by Muslim family Law Ordinance 1961, Maintenance ought to be paid by the spouse if any sum payable under this law, not paid in due time, will be recoverable as unfulfilled obligations of land income. In any case, there is no punishment by this arrangement if spouse are not giving the upkeep of the tyke.

The demonstration does not clear up the circumstance when guardians didn't satisfy their due parental commitment, is the kid can decline to pay the support to the guardians or not? In Indian case Pandurang Baburao Dabedhe v. baburao dabedhe, court pronounces to pay the maintainence in such situation when the guardians were not capable but rather the tyke is fiscally capable. In mahendra Kumar Gaikwad v. Gulavi , one of the contentions that the respondents' child against the candidate mother was that the parent had not released their obligations towards him legitimately and in this manner they had relinquished their entitlement to guarantee upkeep from him. The court notwithstanding, requested him to pay upkeep.

Furthermore the Act doesn't clarify the progression mother's rights from the law. Though Indian law says step mother can't guarantee upkeep from step youngster, Kirtikant D Vadodaria v. Territory of Gujarat. Along these lines, the dads obligation to the tyke referenced in law is less underscored Compare to youngster duty. Henceforth kids turn out to be increasingly at risk as indicated by this Act.

5.3. Reasons behind not providing Maintenance by Children:

In South Asian nations elderly individuals are regarded by the family, society and even by the country. Anyway because of some different financial reasons, the customary qualities and traditions and additionally family bonds are relaxing up now a days. Because of corruption of good qualities, the more youthful populace considers the experience and information of elderly is predated. Today much of the time more youthful are never again prefer to live with elderly. On the other hand late social changes, for example, urbanization, relocation and expanded female work constrain investment imply that age of a family may live in better places due to their since the work put are most regularly unified in the capital city. Subsequently, the conventional joint family structures have separated and in addition the familial help to the elderly have been lessened amazingly. Under the above conditions elderly individuals particularly in poor families have been tossed into financial weakness. Likewise, the nonappearance of medicinal services offices is another main consideration that added to their enduring since maturing welcomes new medical issues.²⁴

Here the female elderly are most helpless regarding financial state of the nation henceforth they should confront hopeless circumstance in future because of maturing. To confront the high costs of life driving cost now daily's female are force to go out for work who were the guardian to the elderly in past period. Subsequently, nobody remain to dealing with elderly, while more often than not elderly needs to dealing with kids without their folks. In addition, Lack of business chances of child/little girl is one of the real reasons for unfit to give the best possible upkeep to their folks. Likewise, life driving costs expanded with the time, hence to keep up money related help for the family come about by absence of financial dissolvability. Elderly individuals turn into the weight to the family too. The progressing procedure of family unit will include more weight the elderly emotionally supportive network. This is on the grounds that the Act forced the upkeep of guardians as well as the following four grandparents without dad and mother. If there should be an occurrence of just a single youngster giving the support of four grandparents will be a weight clearly.

²⁴ <https://www.jrf.org.uk/sites/default/files/.../ageing-south-asian-families-summary.pdf> > December 2 2018

Chapter 6

Findings and Recommendations

6.1 Findings:

Accessible writing demonstrates that in our general public, elderly individual are confronting numerous sorts of social, mental, medicinal and financial issue. In light of their age, the elderly in Bangladesh is confronting following difficulties. Figure 2 demonstrates the reason for defenselessness of elderly. Because of the social setting of Bangladesh, the majority of ladies in rustic and ghetto territory don't claim arrive and other property and they are on more regrettable circumstance in the maturity, however the nation has law to circulate resources and land to the ladies. Additionally, as indicated by the Muslim Personal Law (Shariat) application act, 1937 (ACT NO. XXVI OF 1937) the spouse acquires one-eight if there is kid and if there be no tyke gets one-fourth²⁴.

In Bangladesh customary family designs are separating which change standards and qualities, for example, regard to elderly individuals in the family and the network. Thus defenselessness of the elderly individuals is expanding. The weakness is as far as sustenance utilization, asylum, network and social frame of mind. In Bangladesh, the elderly experience the ill effects of various medical issues. For example, shortcoming, tooth issue, hearing issue, vision issue, body throb, back agony, rheumatic torment and solidness in joint, dementia, delayed hack, breathing trouble, asthma, palpitation, hypertension and micturition inadequacy, which may request long haul psychosocial treatment, nursing care and hospitalization.

6.2 Recommendations:

To guarantee prosperity of elderly people following measures ought to be taken.

1. Exchange with the relatives of the elderly people to guarantee their prosperity and appropriate consideration.
2. Relatives, understudies, experts ought to be prepared in elderly consideration.
3. The elderly themselves ought to be instructed in self-care.
4. Mindful and propel the elderly individuals to include with the elderly welfare associations.
5. For elderly consideration and duties ought to incorporate into reading material to show new age to show their jobs and duty.
6. Foundation of amusement offices for the elderly folks individuals,
7. To guarantee great wellbeing and revive brain of elderly individuals need to guarantee locally situated and found based medicinal services focuses where they get legitimate nursing and care. To guarantee invigorate mind need to built up entertainment communities for them.

8. Increment NGO administrations, for example, open air and indoor medicinal services.
9. Retirement age should increment to 65 years to make openings and they can use their gainful years to serve the general public and can set up their positive picture in the nation.
10. Increment substantial scale government managed savings programs, similar to, annuity, maturity recompense and medical coverage. Government should increment open air benefit units in government healing centers and unique free transport administrations for the elderly.
11. Actualize suggestion of Vienna International Plan of Action on Aging and Political Declaration and Madrid International Plan of Action on Aging.
12. Need an itemized study giving current information on the number and states of the matured.²⁵

6.2.1 Emerging issues and challenges of elderly:

Taking sufficient consideration of the elderly will be a noteworthy test for Bangladesh. This is for the most part because of insufficient assets being distributed for the administrations to the elderly and no legitimate arranging or vital mediations for giving comprehensive consideration to them. The rising issues of the elderly are referenced as a 'current and up and coming difficulties' in the draft National Health Policy, 2008²⁵. The difficulties are: Unemployment and weight: Elder people are being considered "unemployable" as a result of their age and compelled to quit working as a result of obligatory retirement ages. The proportion of work power to subordinate populace will demonstrate such a large number of ward individuals which will prompt a weight for the working gathering.

Greater treatment cost: Elder individual confronting non-transferable illnesses which may require long haul treatment and its motivation load greater treatment cost and nursing care. The monetary defenseless individuals can't manage the cost of the treatment cost to treat the more established individuals.

6.2.2 Considerable resources need:

²⁵ shodhganga.inflibnet.ac.in/jspui/bitstream/10603/140911/11/11_chapter%203.pdf

As the increasing size of the elderly population in Bangladesh will become a major social challenge, well planned programmes have to be undertaken and adequate resources allocated for the support, of the elderly population.

6.2.3 Pressure in pension scheme:

With people enjoying longer lives pension schemes will have more beneficiaries who will be eligible for pensions for a longer period. Social security scheme system will come under increasing pressure Social security schemes will have to accommodate more people and therefore will be under pressure.

CONCLUDING REMARK

7.1 Conclusion

The legislature of Bangladesh has ordered a milestone law in such manner named Pita Matar Voron Poshon Ain (2013) to guarantee the upkeep of elderly guardians by their youngsters. Preceding sanctioning this Act, there was no explicit enactment to bring any lawful activity for upkeep by the guardians against their kids. Subsequently, once in the past they could start a claim just under Section 5(d) of the Family Courts Ordinance (1985) for upkeep. Be that as it may, the recording of claims by the guardians for support under this Ordinance against their issues has not been seen in wide practice as the arrangement has not been completely engrafted in that.

Section 3 of the Act manages the upkeep of guardians which imagines in sub-Section (1) that each child will guarantee the support of his or her folks and sub-Section (2) clears up that if there be in excess of one kid alive to the guardians they having counseled with one another will guarantee the upkeep of his or her folks. The Section additionally makes it officeholder in its sub-Section (3) that upon the youngsters to live with their folks. Today there is a typical marvel in our general public that the posterity leave their matured guardians in guardians care focus or old home and the guardians live there in hopeless condition. To keep this unfortunate practice, arrangements have been consolidated in this Section which give in its sub-Section (4) that the kids will never urge their folks to live in guardians care or in some other place without wanting to.

Again Section 4 contains arrangements with respect to the support of fantastic guardians without their youngsters which authorizes that the grandparents are qualified for case upkeep from their grandkids without their kids. Area 5 gives the punishment to not giving upkeep of guardians which conceives that if any youngster transgresses the arrangements of segments 3 and 4 of the Act he will be obligated to pay fine up to 1 lac taka neglecting to pay which makes him at risk to endure detainment up to three months. Area 6 manages the idea of the offense which further portrays that the offenses submitted under this Act are cognizable, bailable and compoundable. Segment 7 contains that despite anything contained in the Cr.P.C (1898) protest about the offense will be documented in the First Class Magistrate Court or Metropolitan Magistrate Court. The Section further includes that no Court will take awareness of the offense under the Act with the exception of upon a grumbling recorded by the guardians or upon a protestation composed by the guardians. punishment for not giving support of guardians which visualizes that if any kid transgresses the arrangements of areas 3 and 4 of the Act he will be subject to pay fine up to 1 lac taka neglecting to pay which makes him at risk to endure detainment up to three months. Segment 8 contains arrangements with respect to the procedure of discretion and intervention and gives the extension to the dissension to be discarded by trade off between the gatherings. As indicated by this Section the Court may send the objection to the neighborhood government delegates, e.g., concerned Chairman, Member of Union Council or Mayor, Counselor of City Corporation or to any skilled individual to determine the dissension by bargain and on the off chance that they can touch base at any choice it will be considered to be the able Court. At last, Section 9 of the

Act manages the rulemaking intensity of the administration which enables the legislature to outline rules to fulfill the protest of the Act yet no principles have yet been encircled.²⁶

In spite of the fact that this Act might be treated as the milestone if there should arise an occurrence of guaranteeing the hallowed obligation by the kids to keep up their folks, it has a few entanglements. It might be shorted out that this Act bargains just with the normal or organic guardians and kids and does not illuminate whether the associated, uterine, receptive, encourage and step guardians and ill-conceived, step and received youngsters will fall inside the domain of this Act or not. There are no arrangements of the request of break support for the guardians to be paid amid the pendency of the suit. Another imperfection of the Act is that discernment of Court under the Act has been made restrictive in Section 7 which stipulates that no Court will take insight of offense under the Act with the exception of upon a protest recorded by the guardians or upon a protestation composed by the guardians, yet extraordinary circumstances may emerge where guardians may be uneducated or may not be in a situation to document objection themselves or the guardians might be unduly affected or sincerely coerced by their kids or might be hesitant to record a dissension against the kids on some other ground. This Act does not give any extraordinary items to guaranteeing quick preliminary of the offenses submitted under the Act, which is a one of a kind component of a Special Act.

Regardless of having a few lacunas in the Act, we ought to value the administration for ordering such sort of healing and advantageous rule, which will be a reason for anchoring the support of their folks.

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