

Filial Piety Laws in the Asia Pacific

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Overview

- Origins of Filial Piety
- Definition of Filial Piety, Responsibility, Support Laws (FPRS laws)
- Some Examples of Countries of have FPRS Law and some who don't
- Serving the Purpose vs the Pitfalls of Filial Piety Laws
- Human Rights-Based Approach
- Some Thoughts and Recommendations



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/xiào/

Filial Piety

noun [fill-ee-ul pi-eh-ty]

The virtue and primary duty of respect, obedience, and care for one's parents and elderly family members.

<https://www.thechinastory.org/yearbooks/yearbook-2014/forum-all-that-is-old/institutionalising-filial-piety/>

https://www.facebook.com/ShenYunPerformingArts/photos/a.502216646542643/515379668559674/?type=3&locale=zh_CN

Definition Filial Piety/Responsibility/Support Laws

“a statutory duty for adult children to financially support their parents who are unable to provide for themselves.”

.... assign filial responsibilities and establish the extent to which adult children must provide for their ageing parents. The laws are predicated on two conditions.

First, governments must have a systematic mechanism for determining need. Many filial-support laws stem from social-welfare laws and identify a person in need as an individual who is “so poor that they must be supported at public expense.”

Second, the statutes themselves must assign responsibilities based on the traditional concepts of intergenerational fairness and reciprocity. (Pearson 2005)

For example, the common belief that, in adulthood, children should compensate their parents for the sacrifices that their parents made in supporting them to adulthood. Adult children could be relieved of their filial responsibilities if their parents were known to have abandoned their parental obligations at some point during their children’s upbringing. In such cases, family courts or special tribunals can act as adjudicators and or arbitrators. (Serrano 2017)

Table 1

Filial-support laws, Bangladesh, China, India and Singapore, 1995–2013

Country	Name of law	Year enacted	Main requirements	Can third-parties file under the act?	Penalties	No. of cases
Bangladesh	Parents Maintenance Act	2013	If adult children do not provide their parents' maintenance without any "logical reason", the parents may get remedy by complaint. All adult children must provide their parents with a "logical amount of money" for maintenance, from their earnings, if the parents do not live with the children. In the absence of one or both parents, the grandparents may be entitled to "maintenance" allowances.	NS	Fines of up to US\$ 1200. If fines are unpaid, violators may face imprisonment for up to 3 months.	NA ^a
China	Law for the Protection of the Rights and Interests of the Elderly	2013	"Family members should care for the spiritual needs of the elderly and must not ignore or neglect them. The supporters who live separately from the elderly should frequently visit or send a greeting" ³	Article 43 notes: "When the lawful rights and interest of the elderly are infringed upon, they or their agents shall have the right to refer the matter to the department concerned or bring a lawsuit to a people's court according to law" ³	NS	In Beijing, 63 tribunals in 2016 and 290 between 2013 and 2017. Corresponding numbers for China were 2754 and 8647, respectively ^{4,b}
India	Maintenance and Welfare of Parents and Senior Citizens Act	2007	Adult children and or grandchildren are under obligation to maintain at least one parent or grandparent. An adult relative of a senior citizen is bound to look after the senior citizen.	Yes, but only a tribunal may file complaints on behalf of old people	Fines of US\$ 75 and or imprisonment for up to 3 months	In the National Capital Territory of Delhi, 571 tribunals in 2017 and 1651 between 2009 and 2017 ^{5,c}
Singapore	Maintenance of Parents Act	1995	Adult children must pay each Singaporean parent who is aged at least 60 years, either a monthly allowance, or a lump sum, for maintenance	The act does not specify if third parties can file complaints on behalf of old people	NS	There were 70 new applicants for maintenance in 2016 and 2283 between 1996 and 2016 ⁶

NA: not available; NS: not specified; US\$: United States dollars.

^a Data on the numbers of cases do not appear on the web sites of the Bureau of Statistics or the Ministry of Social Welfare.

^b China's national government does not publicly post data on the numbers of cases. The numbers shown here are crude estimates (probably underestimates) based on the results of a search of the online databases of the supreme people's court for which "Law for the Protection of the Rights and Interests of the Elderly" and "maintenance" were used as search terms.⁴

^c In India, the decentralized enforcement of the act means that no national statistics on the numbers of cases are available.⁵

Countries with FPRS laws

- Korea: to preserve traditional filial practice, not to obligate directly but to emphasize the importance of family and an aging population, no penal sanctions but indirectly enforce the law by implementing policies and programs to help encourage (Walker 2019)
- Singapore: residents aged 60 and above who are unable to provide for themselves to claim maintenance from their adult children who have the capacity to support in the form of monthly allowances. This is determined by the Commission of the Maintenance of Parents which resolve maintenance disputes and ensuring conciliation is prioritized over court processes. (Singapore Ministry of Social Welfare and Development)

Malaysia

- "there is no legislation to protect the older persons right to filial support . . . As a result, elder parents in Malaysia may have difficulty obtaining judicial assistance to safeguard their rights and to uphold the right of poor older parents to be supported by their adult offspring through substantive and enforcement legislation." (Masoc Care 2023)

Balancing filial piety and senior care



FAMILY

Monday, 26 Jun 2023

2:00 PM MYT



The core concept of Kaigo emphasises self-care in the elderly, to enable them to retain their independence for as long as possible. Photo: 123rf.com

"Pa, let me do that for you."

"Oh, don't worry about that. I'll get it done, just stay put and watch TV, ya."

"Walking around is such a strain to you, ma - lie down, lie down."

Do these statements sound familiar to you? Is this the way you show your elderly family members that you care for them? Or rather, is this how care is commonly portrayed through media, family expectations, and cultural teachings? Is this a representation of filial piety?

Philippines

- Constitution provides that “it is the duty of the family to take care of its elderly members while the State **may** design programs of social security for them.”
- A recent legislative proposal: Criminalizing Deprivation of Support to Elderly and Indigent Parents Act, seeks to mandate “children to support their elderly parents or risk going to prison”

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EDITORIAL
Filial duty

While there’s no argument that children must look after their parents as they themselves navigate the challenges of raising their own families, government support must be there for those mired in or on the fringes of poverty. Government must share the responsibility for taking care of one of the poorest and most destitute sector: the abandoned elderly and those who no longer have a family to look after them.

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The Pitfalls of Filial Piety Laws

- Forcing filiality in law can be problematic
- expression of intergenerational solidarity at the smallest unit of society
- filial piety laws that penalize not only by a fine but also imprisonment may not have a positive impact on the objective of intergenerational solidarity.
- Filial piety laws have been used to collect debts by “elder care facilities” or other third parties and have been reduced to financial transactions, altering or damaging relations within the family.

Filial Piety, Responsibility, Support

Discrimination

Exploitation

Neglect

Abandonment

Deliberate acts of Abuse

Similar visualization of the ladder of participation

<https://organizingengagement.org/models/ladder-of-citizen-participation/>

Filial Piety, Responsibility, Support

Intergenerational Solidarity

Human Rights-based Approach

- Anchored on Human Rights
 - Convention on the Rights of OP is best anchor to guide States on minimum standards of respect, promotion, protection, and fulfillment of human rights
- Addresses the most disadvantaged, marginalized, and vulnerable, provides a protection regime at all levels, Access to public services (as a right, not a privilege)
- Ascertains the role and relationship between Duty-Bearers and Rights-holders
 - Primary Duty Bearer is the State: regulator, mediator, promoter, protector, provider
- Akin to other human rights principles
 - Is IGS similar to BIC, AA, RA? With human rights of older persons in a binding instrument, could this be one of the key principles?

Some Thoughts and Recommendations

- Filial Responsibility as a norm, case for balance: Respecting, Enabling Autonomy and independence of OP
- Lowest/Smallest form of IGS — expressed in the smallest unit of society?
- Some rough equivalents in existing treaty mechanisms
- How we communicate Filial Piety, Responsibility, Support matters. Social behavior Change Communication — FPRS may be a better way than the negative approach of “Elder Abuse”. — a euphemism? But is this a denial of the phenomenon?

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