

The Elderly

SUMMARY OF KEY ISSUES IN PREVIOUS UPR CYCLES

In the II UPR cycle, the only recommendation (no: 167) made to India by Senegal urged the State to ensure better protection for the elderly. The recommendation was accepted by India. India had initiated important policy measures for the rights of elderly such the 'National Policy On Older Persons (NPOP) in 1999 and 'Maintenance and Welfare of Parents and Senior Citizens Act, 2007'. The new draft National Policy for Senior Citizens (NPSC) of March 2011 is still pending with the India Ministry of Social Justice and Empowerment after the passage of 5 years.

Only a few Indian states have so far announced a matching State Policy on Older Persons (SPOP) based on the NPOP. Adequate implementation of the 'Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has not been achieved. Resources are inadequately allocated and therefore covers little for elderly in schemes like pension facilities. Older people fail to avail social security, access to health and productive resources, work, food and housing. This has gradually led to exclusion, poverty, and discrimination of older people.

Older people are not recognised explicitly under the international human rights laws. Only the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families mandates against age discrimination. Commitments to the rights of older people exist, such as Madrid International Plan of Action on Ageing (MIPAA) 2002 reaffirmed the commitment of the member states to the promotion and protection of human rights of older people. However, they are not legally binding and therefore only impose a moral obligation on governments to implement them.

NATIONAL LEGAL FRAMEWORK

According to the Census of India 2011 the numbers of elderly were 103 million and in 2015, 108 million. According to the report by the Indian Ministry of Statistics the percentage of citizens over the age of 60 has jumped 35.5 per cent – from 7.6 crores in 2001 to 10.3 crores in 2011. According to a report titled "Situation Analysis of the Elderly in India " by Indian Ministry of Statistics & Programme Implementation, the elderly population accounted for 7.4% of total population in 2001 but less than 20% of elderly women and majority of elderly men were economically independent.

According to Article 41 of the Indian Constitution "The State shall, within the limits of its economic capacity and development, make effective provisions for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want".

The National Policy on Older Persons (NPOP), 1999 envisages State support to ensure financial and food security, health care, shelter and other needs of older persons, protection against abuse and exploitation, and availability of services to improve the quality of their lives.

The National Council of Older Persons was constituted in 1999 to monitor the implementation of the Policy and advise the Government on issues related to senior citizens. The Council is designed to receive suggestions, complaints and grievances from senior citizens but the Council has hardly met since 2011. The Council has been reconstituted in 2012 as National Council of Senior Citizens with wider national impact. There has been a failure of implementation in the National Policy as the inter-Ministerial Council meetings for the National Policy have held only twice in 10 years.

CHALLENGES

Partial implementation of the provisions of National Policy On Older Persons (NPOP)

Non-operational Old Age Pension Schemes

Lack of security for Old Age persons as the promises made in Maintenance and Welfare of Parents and Senior Citizens Act 2007 remains unfulfilled.

Poor Health Care Facilities

ISSUES AND IMPACTS

Even after 17 years of the adoption of the NPOP (1999) only 13 of the 29 Indian states have announced a matching State Policy on Older Persons (SPOP) based on the NPOP. This means, 16 of the 29 states have yet to announce State Policy on Older Persons (SPOP). This same low priority treatment towards the elderly can be seen by the fact that as on date only 8 States have bothered to form a functional 'State Council for Senior Citizens which is a key State level advisory body where all stakeholders concerned with senior citizens issues in the state are nominated for periodic consultation and advise on senior citizen matters. To revise and modify the NPOP 1999, the Government of India formulated a draft National Policy for Senior Citizens (NPSC) in March 2011. However, the draft National Policy is still pending with Indian Ministry of Social Justice and Empowerment.

Indira Gandhi National Old Age Pension Scheme (IGNOAPS) has been operational since 1995. The scheme was to cover the "oldest old" (i.e. above 80 years) and provide additional pension in case of disability, loss of adult children and concomitant responsibility for grandchildren and women. It was provided that scheme would be reviewed every five years. However, in reality no review has taken place thus rendering more than 30 million elderly destitute with no source of income or pension in old age. In addition, there are various other vulnerable groups such as Primitive Tribal Groups (PTGs), socially stigmatized communities such as sex workers, the trans genders, HIV positive people who are left out of this pension scheme.

The Maintenance and Welfare of Parents and Senior Citizens Act was enacted in 2007 for providing more effective provisions for maintenance and welfare of senior citizens. Even after 5 years of the adoption of the Act, in 2012 only 14 out of a total of 29 states and 5 UTs have completed all the necessary steps and formalities to ensure full implementation of the Act. The promise of building one old age home in every district of India provided under Part III Section 19 of the Act remains unfulfilled. Till date not a single old age home has been built.

The Government of India launched the "National Program for Health Care of the Elderly" (NPHCE) during the year 2010-11 for providing dedicated health care facilities to senior citizens (above 60 years of age) at primary, secondary and tertiary health care delivery systems. The objective of the NPHCE is to provide specialized comprehensive health care to the senior citizens at various levels including outreach services. This program was to cover 100 poorest districts by 2013. Till date the coverage is only partial in 100 districts out of the total 622 districts in the country.

CHALLENGES

Skewed Allocation of Resources

The current employment linked pension system is restricted to the employees of organized sector which constitutes only 7 to 8 % of the total work-force. The remaining 93 % of the workforce comes under 'unorganized sector employees'. Estimates suggest that majority of these employees were not covered under any pension scheme. The limited number of unorganized sector employees who get pension after the application of the Below Poverty Line (BPL) criterion, get a meagre sum of maximum Rs. 500/- and that too not in all states. The pension policy for the poor is able to cover only 19.6 million which does not cover the bulk of the poor older persons.

Human Rights Violations faced by Elderly

The elderly persons remain most vulnerable to discriminatory treatment, grievous hurt, murder, and abuse. According to the National Crime Records Bureau's report (2010), 32496 elderly have been murdered and 5836 cases of not amounting to murder and kidnapping have been reported all over India from 2001 to 2010. Help Age India's 'Elder Abuse Study report in 2014' reveals that 1 in 3 older people reported abuse within the family which ranged from physical abuse to verbal abuse.

ISSUES AND IMPACTS

RECOMMENDATIONS

Immediately enact the revised 'National Policy for Senior Citizens (NPSC)' formulated in March 2011.

India should form a Universal Non Contributory Old Age Pension System with a minimum amount of monthly pension not less than 50% of the minimum wage or Rs. 2,000/- per month whichever is higher.

The monthly pension amount be indexed to inflation bi-annually and revised every two to three years in the same manner as is done for salaries / pensions of government officials.

Fully implement the National Program for Health Care of the Elderly (NPCHE) in the 100 poorest districts immediately to protect the lives of 'poorest of the poor'.

Ensure complete utilization of funds for the welfare of Senior Citizens provided under the 'Integrated Program for Older Persons (IPOP) as observed and recommended by the Parliamentary Standing Committee on Social Justice and Empowerment.

Continue and 'increase' the 'numbers coverage' under the Rastriya Swasthya Bima Yojana (RSBY) and change the criterion for coverage of RSBY from 'family coverage' to 'individual' to include the 'senior citizens'.

Ensure 'Free Geriatric Care' at the ground level in every Primary Health Care Center (PHC) and all Government Hospitals and Poly Clinics.

Ensure that the Private Sector Hospitals benefiting from government schemes should be mandated under the new Corporate Social Responsibility (CSR) provisions to provide 'Free Geriatric Care facilities' and 'Free medicines' and at least 'partially subsidized treatment' to poor BPL level elderly persons.

Implement fully all the provisions and welfare commitments of construction of an old age home in every district as mentioned in the Maintenance and Welfare of Parents and Senior Citizens Act 2007 in all the remaining 15 Indian states, as only 14 states have complied with all the responsibilities regarding setting up of Maintenance Tribunals, appointment of staff etc.

Improve the safety and security of the senior citizens at the local police stations and constitute a 'Senior Citizens Cell' in every local police station with 'Community Policing' and coordination meetings between the communities.

REFERENCES

National Policy on Older Persons, (1999), Ministry of Social Justice and Empowerment, Shastri Bhawan, New Delhi.

Draft National Policy on Senior Citizens, 2011: as recommended by Smt. (Dr.) Mohini Giri Committee.

Maintenance and Welfare of Senior Citizens Act (MWSCA) 2007.

Background Paper – National Conference on Ageing, November , 2012, Vigyan Bhawan, New Delhi, GoI, Ministry of Social Justice and Empowerment.

Global Age Watch Index 2015 – Insight Report, Age International, HelpAge International – Global Network.

An Integrated Program for Older Persons. GoI, Ministry of Social Justice and Empowerment.

Status of Ageing in India – Challenges and Opportunities, Edited by K. R. G. Nair, published by HelpAge India.

Fact sheet prepared by HelpAge India for Working Group on Human Rights in India and the UN (WGHR).