

**Report of the Southern African Expert Meeting on the Rights of Older Women**

**Organised by the Centre for Human Rights  
30 May 2018**

## 1. Summary

The Southern Africa Expert Meeting on the Rights of Older Women was organised by the Centre for Human Rights and took place at the University of Pretoria on 30 May 2018. The Southern Africa Expert meeting was convened as part of the #AgeWithRights Campaign that aims to strengthen protection of the fundamental human rights of older persons, with specific focus on older women; and to facilitate a robust discussion on the popularisation and ratification of the Protocol on the Rights of Older Persons. The meeting was attended by representatives from the African Union, the Pan African Parliament, the South African Human Rights Commission and the Commission for Gender Equality, government representatives, embassies, civil society and academics from Southern Africa.

The meeting had three objectives: (i) to identify and examine emerging issues regarding protection and promotion of the rights of older women, including measures to prevent discrimination, neglect, abuse and violence; (ii) to evaluate national and international approaches to widening and deepening the rights of older persons and; (iii) to elaborate on how to promote the rights of older persons, with specific focus on the popularisation and ratification of the Protocol on the Rights of Older Persons.

The meeting also discussed specific issues and obligations that were critical to the enjoyment of all rights by older persons with a key focus on older women, such as discrimination and; the right to health; the right to work and the right to social security.

The Director of the Centre, Prof. Frans Viljoen in his opening address underscored the importance of addressing the rights of older persons and noted that older persons were the fastest growing rights holders. He also emphasised the critical need for states to ratify the Protocol on the Rights of Older Persons.

## 2. Summary of proceedings

### **Session 1: Population Ageing and the Status of Older Women in Southern Africa: Setting the Context**

This session focused on setting the context by examining population ageing and the status of older women in Southern Africa considering that by 2050, the global population of older persons is projected to more than double its size in 2015, reaching nearly 2.1 billion. Over the next 15 years, this will be a 64 % increase in the population of older persons in Africa. The number of people over the age of 60 is expected to grow from 64.4 million people in 2015 to 147 million by 2050 (UN Report, 2013)

For example, the social profile of older persons in South Africa indicates that the ageing population has been increasing overtime between 2011 and 2016 with an estimated 9% growth. 60 % of older persons in South Africa are women and higher in the rural province at 67%. As a result, 83 % of older women in rural areas are highly dependent on old age grants compared to 43% in the urban areas.<sup>1</sup>().

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<sup>1</sup> Stats SA '[Social Profile of Older Persons, 2011-2015](#)' (2017).

An estimated 76% of older women in South Africa receive an old-age grant. Older persons, especially older women and those residing in rural areas are more likely to be illiterate than other parts of the population.

Among the root causes of infringements are that older persons especially older women are frequently negatively stereotyped and discriminated against on the basis of their age and gender. This systematic stereotyping and discrimination against people because they have reached a certain chronological point and are considered “old” has come to be known as “ageism”.

The experts deliberated on a number of issues including, the causes of ageism and expressed numerous opinions, such as ageism reinforcing a negative image of older persons as dependent. When old age intersects with disease and disability, there are compounded impacts including, reduction of independence and ability to remain autonomous. As a result, older persons are considered a burden, in need of care and a drain on resources. This contributes to their vulnerability especially that of older women.

Income was discussed as a longstanding challenge affecting older women in Africa and governments do not always consider social protection a priority. The African economy has more people working in the informal sector than in the formal sector and pensions are not even guaranteed for those who did work in formal sectors. Older women continue working long into old age because they need to generate income - majority working in informal employment - agriculture as the main source of income. Gendered care responsibilities usually disadvantage older women because they are not likely to be employed in the formal sector and thus, lose out on formal pension schemes.

There have also been national level efforts on social protection in countries such as Zimbabwe, Tanzania and Kenya and development of standards on health and ageing and capacity building in Nigeria. However, governments continue to ignore social protection policies on the premise that children will take care of older persons in their families. This trend is gradually changing. For instance, the impact of HIV/AIDS has resulted in the loss of many young people - the very people the state expects to take care of the older persons. Many ill young people return home to be cared for by their ageing mothers and many who succumb to the disease often leave their children to be raised by them. It is also common for children to be left in the care of their grandparents when parents migrate to look for jobs, placing a burden of care on older persons especially older women.

In addition, many older persons especially older women have had to spend their life savings on care and support of ailing family members resulting in financial and emotional trauma. Due to stigmatisation, older persons infected with HIV are also reluctant to seek treatment. This is further compounded by difficulties of accessing health care facilities and high cost of transportation which is a general concern for older persons who are need regular health services.

Other existing infringements of rights of older persons include elder abuse, neglect and violence against older persons. Older persons are vulnerable to abuse due to their health status, diminishing

cognitive ability and lack of supportive social networks. Older women are more likely to experience violence most often perpetrated by their own families or someone known to the older person. These include insults, physical and sexual abuse, invasion of privacy and theft of their old age grants or pension funds. Witchcraft accusation also remains a big issue leading to social ostracizing, abuse and some older women being burnt alive in many countries. The basic criteria to determine who is a witch usually includes: grey hair, wrinkled skin, shuffling walk and forgetfulness.

Experts agreed that ageing should be an issue for all generations and is complex. Important considerations include:

- When gender intersects with age, women are more vulnerable and more marginalised
- Stereotypes about older persons are played out at policy level as older persons are not included in decision making processes which leads to low awareness of their rights and entitlements
- Inadequate coordination and shared learning around protection for older persons
- Marginal consideration of older persons in mainstream policy development and intervention based on an assumed economic irrelevance; assumed effective family system and more focus on youth population.
- Gaps in data gathering and evidence - lack of specialised and longitudinal studies

The session also addressed the question of what we can learn from countries that are doing better? Experts noted that economic growth alone doesn't contribute to the wellbeing of older persons, health and education are necessary. Coordinated approaches within government departments, across sectors and civil society is imperative along with the empowerment of older persons to advocate for their rights.

### ***Session 2: The Multifaceted Nature of Human Rights in the Context of Ageing***

Deliberations also centred on the multifaceted nature of human rights in the context of ageing. It is critical to acknowledge that as ageing is socially constructed, experiences of ageing are not uniformed but are shaped by lived realities. Although the language of rights refers to people aged 60 and above as older persons, this becomes problematic in the African setting. For example, one person at 70 can still be a leader of a country while another at 59 is unable to take care of him or herself. This is further compounded by the absence of birth records; use of socially ascribed indicators such as physical signs (grey hair, stooped, etc), status (economic wealth, or poverty); and culturally defined status for women as those no longer capable of giving birth (menopause) or widows.

The standardisation of human rights can be found in the body of laws that affects the rights of older persons includes the Universal Declaration of Human Rights (UDHR), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention Against Torture (CAT), International Labour Organisation Conventions, and soft laws including the Madrid Plan of Action on Ageing or the UN Principles for Older Persons (etc.). Within the African human rights framework, the

African Charter on Human and Peoples' Rights (African Charter), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), the Protocol on the Rights of Older Persons and the Protocol on the Persons with Disabilities provide protection.

However, the crucial question is, to what extent these laws sufficiently promote, protect and fulfill the rights of older persons? Taking stock of the existing situation pertinent to the rights of older persons at the national level, the experts agreed that the needs of older persons are often complex. Experts reported on policies that promote rights of older persons in countries such as Egypt, Ghana, Kenya, Mali, Mauritius and South Africa. For example, South Africa has taken steps to address some challenges associated with rights of older persons with the Older persons Act 13 of 2006 which provides a concrete framework to advance rights of older persons. However, it is the implementation of the laws and policies that remain a challenge. Unfortunately, in majority of African countries, there are no policies or legal frameworks to protect the rights of older persons.

### **Session 3: The value and importance of the Protocol on the Rights of Older Persons**

Session 3 was focused around discussions on the value and importance of the Protocol on the Rights of Older Persons. The Protocol covers a range of rights, including health services, freedom from discrimination and abuse, right to employment, social protection and education, and provides a framework for governments to protect rights.

The role of African Union institutions in advancing rights of older persons was also explored by the experts with focus on the Pan African Parliament (PAP). The PAP is currently using its advisory role to promote the rights of older persons within the African Union (AU) institutional framework. For instance, it recently adopted a recommendation on the rights of older persons that will be presented at the AU Head of State Summit in July 2018. In the recommendation, the PAP called on states to ratify the Protocol on the Rights of Older Persons; as well as, urging states to strengthen national level protections for older persons.

Ratification and subsequent domestication of the Protocol offers an opportunity to systematically integrate rights of older persons in development, and to coordinate approaches on addressing emergent issues. It is also critical for fulfilling the Sustainable Development Goals' (SDGs) emphasis on universality and integration of older persons in development arena. It also helps with locating the rights of older persons alongside and within the human rights framework.

Since its adoption in 2016, the Protocol on the Rights of Older Persons has been signed by five countries: Benin, Comoros, Ghana, Sierra Leone and Zambia, but no member state has ratified this protocol. Lesotho is set to be the first country to ratify the Protocol as it has completed the national process of ratification and has submitted the instrument of ratification to its Embassy in Addis Ababa to deposit it with the AU. Other Countries such as South Africa and Zambia are also reported to be working towards ratification of the Protocol. For example, in South Africa, the Directorate Older Persons Services in the Department of Social Development (DSD), which is responsible for the development of policies, legislation and norms on older persons, has begun the process of ratification.

It is currently working with the Department of International Relations and Cooperation (DIRCO) to ensure a cabinet memo is drafted. In the meantime, they will be organising key stakeholder consultations necessary for the Protocol to be ratified.

A key emergent issue from this session centred around the non-ratification of the Protocol on Older Persons two years after it was adopted. The question addressed was – what is stopping states from ratifying the Protocol? Numerous opinions highlighted internal factors such as the motivations of different local actors, complex national processes of ratification exacerbated by change of governments and personnel after elections, issue of both human and financial resources and the fact that ageing is not considered a priority for many governments.

The session also highlighted the critical role that civil society can play in pushing states to ratify the Protocol. For example, the Senior Citizens Association of Zambia (SCAZ) continues to make formal follow up with the Zambian government on the ratification process. However, the experts lamented the dearth of civil society working on the rights of older persons which can be attributed to inadequate donor funding in this area.

#### **Session 4: Emerging Issues for the Protection of the Rights of Older Women within the Framework of the Protocol on the Rights of Older Persons**

The lack of the specific mention of older persons in international instruments has contributed to them being left out of development agendas. Rights of older persons, especially older women, have been silent in public discourses, laws and policies. Thus, the Protocol on the Rights of Older Persons symbolises a positive step towards the implementation of rights and provides an opportunity for every country to reflect on the protection of one of the most vulnerable groups in society. For this session, experts deliberated at length on emerging issues for the protection of the rights of older women in Africa.

Discussions highlighted that the rights of older women most especially may be violated in a number of ways, both at the individual and institutional levels. Economic abuse is reported as a frequent type of abuse, followed by sexual abuse, neglect, psychological or emotional and finally physical abuse. Older women are neglected by family members and state officials. Older women make contributions to their families and larger communities, yet these contributions go largely unnoticed. Older women in particular experience intersectional discrimination. They are often isolated, lack economic resources, and are often financially responsible for supporting family members - this is impacted by HIV/AIDS and high unemployment. Violations of the rights of older women often manifest itself in the form of discrimination. For example, women are disproportionately denied their inheritance rights and the practice of wife inheritance in South Africa, Kenya Malawi, Zimbabwe, etc.

The South Africa Human Rights Commission (SAHRC) had received complaints, and investigated the treatment of older persons, some of their findings are discussed in their [2015 Report](#).<sup>2</sup> The report focuses on systemic issues that have a direct impact on older persons, these include the forms of abuse encountered, issues of access to social security, healthcare, residential homes and abuse suffered in care facilities, accusations of witchcraft, protection of older women in relation to property and land rights and the impact of HIV/AIDS on their lives. Older persons are excluded from obtaining the security associated with owning land, especially the case for women. Women's access to land continues to be through men in most Southern African countries.

Additional challenges to realising the rights of older women are the general attitudes of society. Older women constitute a vulnerable group with unique and different needs, and they therefore deserve special protection, for example needs of older women with disabilities also needs to be recognised. Furthermore, States must ensure adequate mechanisms are in place to promote and fulfill the rights of older women. For example, the public dialogues on older persons hosted by HelpAge and the South African Department in 2015, with the goal of finding solutions to the current barriers and challenges preventing older persons from accessing justice found that, older people fear courts and judicial systems. In addition, they also experience stigmatising attitudes from court personnel. Consequently, there is need to find strategies of improving older persons' experience when accessing courts and build their knowledge about getting protection orders to stop elder abuse.

It was also noted that ageing is universal and normal, and therefore, an intergenerational approach to the protection older persons' rights is critical. Older persons need to be empowered while working with the younger generation. Policies and programmes must be designed using a life cycle approach to ageing, to avoid the compounded effects of a life of depravation, neglect, violence, inequality and discrimination. Thus, on top of cash transfer and social grants in old age, policies need to target universal access to education for girls as vital to decrease inequality at earlier stages of life and lessen its impact in later years. There is also need to involve older women in policies and programmes, for example in land reform efforts to ensure that their needs are prioritised.

### **Session 5: Plenary on Strengthening Human Rights of Older Women**

This plenary session addressed the following questions:

- What can we do in our countries with the issue of the violation of the rights of older women?
- What can we do with the Protocol on Older Persons, particularly to ensure it is ratified?
- What sort of partnerships can we form at the national level to facilitate the ratification and promote the rights of older women?

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<sup>2</sup> Investigative Hearing into Systemic Complaints Relating to the Treatment of Older Persons Report 2015

Based on the plenary questions discussed above, the experts agreed on the following recommendations:

- 1) To request state parties of the African Union to ratify the Protocol on the Rights of Older Persons.
- 2) To build synergies and share information on how state parties are promoting and protecting the rights of older persons.
- 3) To conduct comprehensive studies and analysis on the situation of older persons, especially older women in Africa.
- 4) To build partnerships between government, civil society organisations and the private sector for multisectoral approaches in addressing the problems faced by older persons.
- 5) To examine existing normative frameworks to ensure that laws do not perpetuate discrimination and violence against older persons, particularly, older women.
- 6) To enhance awareness and data collection regarding discrimination and abuses against older persons.
- 7) To raise awareness on the issues and rights of older women.
- 8) To engage the media for effective reporting on the issues of older persons in order to avoid perpetuating stereotypes on ageing.