

RIGHTS OF THE ELDERLY

Introduction

This bulletin explains the rights of the elderly, who are people over the age of sixty internationally and seventy in Zimbabwe. Age reduces the elderly's capacities to demand and invoke their rights. Family members, society and others often violate the rights of elderly people. The elderly deserve special rights protection as a vulnerable group. Elderly people globally totaled 737 by 2012 and may reach 1.2 billion by 2025 and 2 billion by 2050. The United Nations, acknowledging the contributions made by the elderly and their vulnerabilities, and declared every first of October, the International Day of Older Persons.

Significance of rights of the elderly

The elderly, as a vulnerable group alongside women, children and the disabled among others, often encounter discriminatory treatment or need special attention to avoid potential exploitation. When they were young and in their middle ages,

elders made great contributions to society. With old age they face the following challenges that limit their enjoyment of human rights:

- lack of informed consent and access to decision making on issues to do with their health, property and care;
- lack of essential information and opportunities for active participation;
- exclusion (low income, infrequency of social contacts, non-participation in social and political activities, poor health and low quality of environment);
- neglect and abuse;
- discrimination;
- inequalities, subjugation and even violence.

Effects of the vulnerabilities

Most old people are associated with poverty, ill health and a poor quality of life. Principles for the Older Person developed by the United Nations in 1999 identified the following priority areas giving attention to the elderly; *independence; participation; care and self-fulfillment*. Without independence elderly people fail to self-help, get assistance from their families, community and access to incomes for their adequate food, water,

shelter, clothing, and health care. When isolated and excluded they fail to be involved in the formulation and implementation of policies that directly affect their well-being, share their knowledge and skills with younger generations, form associations and be integrated with society. When communities, health, social and legal services are not available and accessible to enhance the elderly's autonomy and protection, their quality of life deteriorates. Without opportunities for the full development of their potential in education, culture, spiritual and recreational activities the elderly cannot have self-fulfillment. All these are essential for elderly people to be able to live in dignity, have security and be free of exploitation and physical or mental abuse.

As a result of these vulnerabilities the elderly are more likely than others to suffer from a broad range of violations of constitutionally guaranteed rights that include the right to life; the right to human dignity; freedom from torture, cruel, inhuman and degrading treatment and punishment; freedom of equality and non-discrimination; right of access to information; property rights; environmental rights; freedom from arbitrary eviction; right to health care and right to food and water.

Regulatory and policy environment

In acknowledgement of the need for the protection of rights of the elderly the

Zimbabwean Constitution under Section 21 provides that:

- (1) *The State and all its institutions and agencies of government at every level must take reasonable measures, including legislative measures, to secure respect, support and protection for elderly persons and to enable them to participate in the life of their communities.*
- (2) *The State and all its institutions and agencies of government at every level must endeavour, within the limits of resources available them –*
 - a) *to encourage elderly persons to participate fully in the affairs of society;*
 - b) *to provide facilities, food and social care for the elderly who are in need;*
 - c) *to develop programmes to give elderly persons the opportunity to engage in productive activity suited to their abilities and consistent with their vocations and desires; and*
 - d) *to foster social organisations aimed at improving the quality of life of elderly persons.*

Section 82 of the Constitution provides that *People over the age of seventy years have the right*

- (a) *to receive reasonable care and assistance from their families and the state;*
- (b) *to receive health care and medical assistance from the State; and*
- c) *to receive financial support by way of social security and welfare; and the State must take reasonable legislative and other measures, within the limits of the resources available to it, to achieve the progressive realisation of this right.*

Zimbabwean legislation on the rights of elderly people includes the Older Persons Act (Chapter

17:11) of 2012, which paved the way for selected social protection mechanisms for older persons; the National Social Security Authority (NSSA) Act of 1989, Chapter 17: 04; and the Social Welfare Assistance Act of 1988.


International human rights instruments that address the rights of elderly include the *International Covenant on Civil and Political Rights (ICCPR)*, which provides that all humans have rights to civil and political freedoms. The *International Covenant on Economic, Social and Cultural Rights (ICESCR)* recognises that all human beings have the right to enjoy economic, social, cultural, civil and political rights. *Article 9 of the ICESCR* specifically provides that every person should be granted access to social security. *Article 18 (4) of the African Charter on Human and People's Rights* obliges member states to provide special measures of protection in keeping with the elderly's physical or moral needs. The AU drafted a protocol to the African Charter on the rights of older persons in 2014, which has not yet entered into force as an AU instrument. UN Principles for Older Persons, Resolution 46/91 by the General Assembly in 1991 and the Madrid International Plan on Ageing in 2002 by the World Assembly on Ageing also provide standards for fulfilling the rights of the elderly. There is also an understanding that general protection of the rights of elderly persons under existing international human rights law is not enough. Consequently there are plans for the

drafting of a UN Convention on the Rights of Older Persons.

Rights of elderly persons in Zimbabwe

Families of the elderly, their communities, NGOs, well-wishers and government care for the elderly in Zimbabwe. All non-state actors provide non-obligatory care and assistance to the elderly, at their benevolence and when they have resources to do so. Government exempts those over the age of seventy from the death penalty; has a public assistance programme administered by the Department of Social Welfare to cater for the elderly; runs a Pensions and Other Benefits Scheme under the auspices of the National Social Security Authority of Zimbabwe; runs a cash transfer programme under the National Action Plan for Orphans and Vulnerable Children (OVC); and entitles the elderly to free primary health care services through public health services.

Fulfillment of rights of the elderly depends on the policy and regulatory framework; political will and resource availability for the government; NGOs and families of the elderly persons. Although the rights of elderly persons are enshrined in the constitution and under international human rights law, they are rarely justiciable. Severe limitations hinder the fulfillment of rights of the elderly. Social solidarity and the family, expected to cater for the elderly face threats of individualism, family breakdowns, deaths and a poor economy. NGOs



facing viability challenges and corruption struggle to close the gap. This leaves the elderly at the mercy of government.

Existing government measures to assist the elderly are compromised by selective distribution, inaccessibility, limited awareness among potential beneficiaries and the insignificance of the benefits. The under-funded, non-contributory public assistance scheme, with erratic disbursements, offers between \$10 and \$25 a month. It is unavailable to individuals assumed to have extended families capable of assisting them. The Pension and Other Benefits Scheme, offering paltry monthly payments of \$40 - \$60 monthly way below the poverty datum line is based on membership and contributions. It exempts the unemployed, informal sector workers, domestic workers and rural peasant farmers. The cash transfer scheme is donor funded and hence not sustainable. Specialised geriatric medical services

are not free while the existing general health care system is inadequate for medical needs of the elderly.

Conclusion

The elderly are not enjoying their full rights in Zimbabwe through existing social protection measures. It is the collective responsibility of government, NGOs and citizens to protect the rights of elderly people. Government should provide financial support to families caring for the elderly as part of social protection measures. Non-contributory or universal pensions should be availed to those over the age of 60 to restore their dignity and self-sufficiency. The age threshold for the public assistance should be reduced to 60 in accordance with the United Nations threshold.

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