



Open-ended Working Group on Ageing, 11th Working Session, 6-9 April 2020

Focus area - Access to Justice

The submission is from GRAVIS, an NGO based in India accredited with the OEWG and the views submitted are in the context of India.

National legal framework, availability and accessibility

In theory, the rights of older people are broadly covered within the Constitution, policies and programmes in India, and are more or less a combination of legal duties and moral obligations. Older people above 60 years are referred as Senior Citizens in India. As a result of various limiting factors including illiteracy and ineffectively implemented regulations, large numbers of older people in India have to go through physical abuse, mental harassment, neglect, oppression and isolation. A large number of 100 million older people living in India live in rural and remote areas, are illiterate, live under poor health conditions and under poverty. While the overall percent of literates among elderly persons increased from 27% in 1991 to 44% in 2011 nationally, it still is quite low. Article 41 of Constitution ensures the Right to work, to education and to public assistance in certain cases. It states that The State shall, within the limits of its economic capacity and development, make effective provision 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.

Older people's access to justice in most parts of India (and in rural parts in particular) is extremely limited and they do not have any support system or facilities to get legal assistance. In some remote parts of the country such the Desert areas in Western India and the hilly regions in Eastern India, the situation is particularly difficult for older people with lack of services and with difficult terrain. In the year 2007, Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was enacted, initiated by Ministry of Social Justice and Empowerment, Government of India to provide more effective provision for maintenance and welfare of parents and senior citizens. This Act makes it a legal obligation for children and heirs to provide maintenance to senior citizens and parents, by monthly allowance. This Act also provides simple, speedy and inexpensive mechanism for the protection of life and property of the older persons. The Act is a sound tool to ensure older people's entitlements, welfare to and to ensure their protection from abuse. However, it may take some time for the Act to be fully understood, disseminated and implemented.

Since 1993, India has a National Human Rights Commission (NHRC) that directs the functioning of State Human Rights Commissions in all States of the country. The Human Rights Commissions look into all human rights issues including the rights and entitlements of older people.

Equality, non-discrimination

Overall, there are limited practices, mechanisms in existence that would promote non-discrimination of older people within the judicial processes. By tradition, old age is given respect in the society and hence, older people may occasionally benefit because of that belief within some administrative and judicial processes. Mostly, older people depend on their families and communities to receive support and legal assistance. Older women and older people with disability have greater access challenges.

Accountability

There is a great need of generating older people's awareness levels, for example on the existence of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and its contents. GRAVIS, an India based Civil Society Organization (CSO)/Non Governmental Organization (NGO) has been working relentlessly for older people's rights and entitlements for the last 35 years. It is a member of the global network of HelpAge International as well as of the Global Alliance for the Older People's Rights (GAROP). It supports training and capacity building of OPAs, which is an effective platform to impart knowledge and awareness among older people. Inclusion of older women within the community level organizations will give older women the access to knowledge on rights and entitlements. Intergenerational learning approach and support should be strengthened for enhancing bonding among generations and for knowledge building through Intergenerational Learning Groups (ILGs). Models like OPAs and ILGs could play very important roles in enhancing accountability with older people's participation.

At the village level, which is a very important demographic unit in India, legal assistance units may be created within the Village Elected body offices (*panchayat*) or schools run by trained volunteers. Basic informational could be displayed within the units.

Special focus may be required to cover older women and older people with disabilities.

The State Human Rights Commission may lead the formation of State level partnerships joined by OPAs, other CBOs, NGOs and private sector stakeholders to implement and monitor initiatives/campaigns aimed at improving older people's access to justice.

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