

## National Human Rights Commission

### **Subject: Draft Inputs for 04 focus areas of the 12<sup>th</sup> Session of Open Ended Working Group on Ageing**

#### **Focus area 1: Contribution of Older Persons to Sustainable Development**

The Constitution of India under the article 19(1) (a) states that, “all citizens shall have the right to freedom of speech and expression”. The Right to Information Act, 2005 is enacted to consolidate the fundamental right of 'freedom of speech' in the Indian Constitution. Further, the Article 19 (1)(b) provides that all citizens shall have the right to freedom of peaceful assembly and of association.

It is enshrined in the Article 39A of the Constitution, “The State shall secure the operation of the legal system on a basis of equal opportunity, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities”. As envisaged in Article 39A of the Constitution of India, the Legal Services Authorities Act, 1987 provides free Legal Services to the vulnerable sections of the society including older persons.

**1- Amendments in the Conduct of Election Rules, 2019:** The Government of India has made amendments in the said rules, under which the senior citizen of more than 80 years of age and PwDs electors marked in the electoral roll now have the choice of voting either as absentee voter or as a regular voter on the poll day with the use of postal ballot paper method.

**2- Accessible India Campaign (Sugamya Bharat Abhiyan), 2015:** Ministry of Social Justice and Empowerment, India has launched this campaign for achieving universal accessibility for Persons with Disabilities (PwDs). This includes creation of elder friendly barrier free environment in buildings, public toilets, buses, bus-stands, airports and other public places to create age-friendly cities.

**3- Concession in Fares:** Indian Railways for welfare of senior citizens has given concessions to male Senior Citizens of minimum 60 years and lady Senior Citizens of minimum 58 years a 40% concession in the fares of all classes of Mail/ Express/ Rajdhani/ Shatabdi/Jan Shatabdi/ Duronto group of trains.

**4- NHRC India** has constituted its core group on older persons which includes participation from Civil Society Organizations, dealing with the issues faced by Older persons, representatives of the concerned Ministries to review the implementation of the existing laws and policies in the country.

**5-Health Support:** Under the National Policy for Senior Citizens, 2011 health insurance is given priority to different income segments of the population. National and regional institutes of ageing are being set up for geriatric population. Adequate budgetary support is being provided for care of the older persons. Vaccination doses to senior citizens above 60 years of age with co-morbidities is allowed by Government from 10 January 2022

**Strategy for leaving no one Behind:** Various schemes such as monthly financial assistance are being implemented for senior citizens and destitute widows, providing free of cost assistive devices to disabled persons, and creating barrier free environment in all public buildings.

The Government of India has taken following initiatives to achieve the goals of SDGs 2030:

- i. **Home for Widows.** The Ministry of Women and Child Development, India has constructed Home for Widows in Uttar Pradesh, with a capacity of 1000 widows to provide them safe and secure place to stay, health services, nutritious food, legal and counseling services. The design of the Home is old age friendly with the facilities of ramps, lifts, supply of adequate electricity, etc.

- ii. **Elder friendly environment:** Ministry of Housing and Urban Affairs, has issued 'Harmonised Guidelines and Space Standards for Barrier-Free Built Environment for persons with Disability and Elderly Persons' in 2016.
- iii. **Concession in Air Fare and other amenities:** The Ministry of Civil Aviation, India has instructed all airlines to ensure provision of automated buggies, free of charge for all senior citizens, in the terminal building to facilitate their access to boarding gates located beyond reasonable walking distance at all airports to facilitate older persons and PwDs. Further, Air India offers 50% discount to senior citizens on the highest economy class Basic Fare.
- iv. **Pradhan Mantri Jan Arogya Yojana (PMJAY), 2018:** The Government of India has launched this scheme to cover over 10 crore vulnerable sections to provide coverage upto Rs. 5 lakh per family per year for secondary and tertiary hospitalization.
- v. **Integrated Programme for Older Persons, 2011:** includes an education component to provide training in old age care and self-care, and conduct sensitization programmes for school/college students and awareness projects for the community.

### **Women's Participation in Skill Training**

- i. **The National Policy for Skill Development and Entrepreneurship (NPSDE), 2015,** Appropriate incentives for women owned businesses under the public procurement process are being provided to encourage women entrepreneurs considering the sustainable employability options for women.
- ii. **Welfare Schemes:** Pradhan Mantri Vaya Vandana Scheme, Indira Gandhi National Old Age Pension Scheme (IGNOAPS), National Programme for the Health Care of Elderly (NPHCE), Varishtha Mediclaim policy, Rashtriya Vayoshriya Yojana, Varishtha Pension Bima Yojana, Senior Citizens' Welfare Fund, Reverse Mortgage Scheme, Pradhan Mantri Jan Arogya Yojana etc. are some of the schemes being implemented in the country.
- iii. **National Awards for Senior Citizens:** The Ministry of Social Justice and Empowerment, India has instituted the National Awards for Senior Citizens, called the "Vayoshrestha Samman", for the eminent senior citizens and institutions working for the cause of elderly persons. The awards are conferred every year on 1<sup>st</sup> October on the occasion of International Day of Older Persons (IDOP).
- iv. **Maintenance and Welfare of Parents and Senior Citizens Act 2007:** The Act provides speedy procedure to claim monthly maintenance for parents and senior citizen and revocation of transfer of property rights by the senior citizen. Further, it makes imperative for each district to establish at least one old age home for indigent Senior Citizens. The Government of India has launched the first pan-India toll-free helpline--14567--for senior citizens called the 'Elder Line', to provide support, and intervene in cases of abuse.

### **Focus area 2: Economic Security**

Some of the key measures undertaken by the Government of India for the Older persons are:

- i. **National Policy on Older persons (NPOP) 2011** is a major initiative taken by the Government of India for the welfare of the elderly which provides a broad framework for inter-sectoral collaboration within the government and between government and on-government agencies. The policy has resulted in schemes to promote the concept of healthy aging, setting up directorates of senior citizens in the state, training of medical and paramedical professionals in healthcare of the elderly.

- ii. The Government has introduced schemes that are targeted specifically at older persons Below Poverty Line (BPL). Indira Gandhi National Old Age Pension Scheme (IGNOAPS) is a big step towards fulfillment of Article 41(provision for securing the right to public assistance) and 42 (raise levels of nutrition and standard of living) of the constitution.
- iii. **National Council for Senior Citizens** is the highest advisory body for the formulation and implementation of the programme for the elderly persons ensures effective participation of the elderly in the normative and political framework with regard to social protection and security. The Council consists of senior citizens and organizations working for senior citizens, apart from representatives from the Government.

The poverty estimates were released by the erstwhile Planning Commission of India for the year 2011-12. The poverty line was defined based on Monthly Per Capita Consumption Expenditure (MPCE) as the criterion. For the year 2011-12, the poverty line at all India level has been estimated as Monthly Per-capita Consumption Expenditure of Rs. 816 for rural areas and Rs. 1000 for urban areas.

- i. **Ageism and Stereotypes:** The stereotypes about older persons lead to isolation and marginalization. With innovative ways to involve older people in the community through social events, a sense of identity, self-esteem among older persons can be developed.
- ii. **Financial insecurity:** Older persons are prone to face ageism in professional set ups and organisations. In addition, managing day to day finances and planning for later life can be challenging for older generations. This can also leave them more vulnerable to fraud and scams.
- iii. **Difficulty with everyday tasks and mobility:** A person's mobility and dexterity will naturally decline as they age, which makes completing everyday tasks more difficult. This can gradually cause people to care for themselves and prevent them from being social, pursuing interests, or taking part in activities they enjoy. Support is needed to enable elderly people not only to live independently through products and programs, which focus on safety, balance, fitness, and mobility, but also to ensure they can continue to thrive as an individual.
- iv. **Finding the right care provision:** When complete independence is no longer practical, many older persons require additional care. Sometimes this care can be provided by family members. In some cases, it is more appropriate for a professional caregiver is to be employed on a regular basis, e.g., when there are complex medical conditions and/or physical disabilities involved.
- v. **Access to healthcare services:** Healthcare can be complicated and disjointed for elderly people, especially for those struggling with long term conditions. The care requires lots of different medical professionals and clinics to coordinate delivery of medication and other types of care.

The research studies undertaken by the NHRC India titled "Sense of Security and Human Rights of Older Persons" and Human Rights of Elderly Persons: Law, Policies and Implementation- A study with Special Reference to Kerala" was undertaken by the National Human Rights Commission in collaboration with Centre for Human Rights, NUALS, Kochi can be accessed on the [website](#) of NHRC.

Article 38(1) of the Constitution enjoins the State to strive to promote welfare of the people by securing and protecting as effective as it may a social order in which justice, social, economic and political, shall inform all institutions of the national life. In particular the State shall strive to minimize the inequalities in status, facilities and opportunities. To ease burden of senior citizens above the age of 75 years, exemption is given to them from filing income tax returns if they only have pension income and interest income.

The National Policy for Older Persons emphasizes on the need for expansion of social and community services for older persons, by removing sociocultural, economic and physical barriers and making the services client oriented and user friendly. Special efforts are being made to ensure that rural areas, are adequately covered. The Retail Direct Scheme by Reserve Bank of India (RBI) is instrumental

in channelizing the savings of middle class, small businessmen and senior citizens directly into risk free government securities.

The State of Karnataka has implemented the Karnataka Maintenance and Welfare of Parents and Senior Citizens Rules in 2009 to provide financial security, welfare and protection for senior citizens. The State of Andhra Pradesh has designated revenue divisional officers as presiding officers of the Tribunal to deal with complaints of parents claiming maintenance under the Act. The same rules are later adopted by the state of Telangana after its formation.

The NHRC India in the year 2021 has issued “Human Rights Advisory on Rights of Elderly Persons in context of Covid -19” where it is recommended that Elderly persons engaged in any job on permanent/contractual basis post their retirement to be given timely remuneration. Job search assistance, vocational guidance and training, provision of universal social security benefits may be provided to older persons to ensure dignified sustenance in the future years

The National Policy for Senior Citizens, 2011 promotes the concept of Ageing in Place or ageing in own home, housing, income security and homecare services, old age pension and access to healthcare insurance schemes and other programmes and services to facilitate and sustain dignity in old age.

The Ministry of Social Justice and Empowerment, India has instituted the National Awards for Senior Citizens, called the “Vayoshrestha Samman”, which is conferred to the eminent senior citizens and institutions working for the cause of elderly persons. The awards are conferred on 1<sup>st</sup> October of every year, on the occasion of International Day of Older Persons (IDOP).

Housing schemes specifically targeting the older generation such as the Indira AwasYojana, for instance group housing facilities with meals, laundry, common room etc. are there to encourage support to the older persons.

The Government of India has launched National Helpline for Senior Citizens namely Elderline (Toll free number 14567), w.e.f. 01.10.2020 to provide support and guidance, to facilitate queries related to implementation of the Maintenance and Welfare of Parents and Senior Citizens (MWPS) Act 2007 and Government Policies and Programmes, To provide a grievance redressal mechanism for senior citizens.

### **Focus Area 3: Right to work and access to the labor market**

Constitution of India envisages right to work for elderly through Article 41 which stipulates 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.” It places obligation upon the State to provide job opportunities and other help to the elderly so that they can earn and live a respectful and independent life.

The Constitution of India under Article 14 (Equality before law) states that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

The Rights of Persons with Disabilities (RPwD) Act, 2016, was enacted in India with several new provisions from the “rights-based” perspective following UNCRPD. As per the Act, ‘Reasonable accommodation’ (RA), i.e., “necessary and appropriate adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities, the enjoyment and exercise of rights equally with others”. It includes modifications like making existing facilities more accessible and job restructuring including flexible work timings, job reassignment, modifications in examination and training, provision of readers and interpreters, etc.

The Ministry of Social Justice and Empowerment, India has launched the Senior Able Citizens for ReEmployment in Dignity (SACRED) Portal on the occasion of the International Day of Older Persons, i.e., 1<sup>st</sup> October, 2021 to ensure that the ever-increasing number of the elderly population is well taken care of by their own family and also by the society. Also,

**National Action Plan for Senior Citizens (NAPSrC):** The Ministry of Social Justice and Empowerment under its National Action Plan for Senior Citizens (NAPSrC) lays down the vision, mission and the plan of action of the Government of India for welfare and well being of senior citizens of the country. It brings together articulation of each of the current schemes, future plans, strategies and targets and maps it with schemes/programmes, accountabilities, financials and clear outcomes taking care of the top four needs of the senior citizens viz. financial security, food, health care and human interaction /life of dignity.

The Government of India enacted the Maintenance and Welfare of Parents and Senior Citizens Act 2007. It obliges children and relatives to look after the welfare of senior citizens. In cases of violation of the obligation, such as abandonment or negligence, the Act provides speedy procedure to claim monthly maintenance for parents and senior citizens and revocation of transfer of property rights by the senior citizen. Under the Act, Tribunals are constituted to receive complaints from parents seeking maintenance from their children. The Tribunal has power of a civil court. Thus, the Tribunals are a grievance redressal mechanism to protect the rights of the elderly.

#### **Focus Area 4: Access to Justice**

Article 41 of the Constitution secures the right of senior citizens to employment, education and public assistance. It also ensures that the state must uphold these rights in cases of disability, old age or sickness whereas the Article 14 of the Indian Constitution provides that, “The State shall not deny to any person equality before the law and the equal protection of the laws within the territory of India”. Access to justice is a basic right that guarantees protection of law to all. It is integral to rule of law.

Indian Constitution is a dynamic instrument and Article 14 of the Indian Constitution provides that, “The State shall not deny to any person equality before the law and the equal protection of the laws within the territory of India”. Access to justice is a basic right that guarantees protection of law to all. It is integral to rule of law.

Speedy trial is a fundamental right implicit in the guarantee of life and personal liberty enshrined in Article 21 of the Constitution and any accused who is denied this right of speedy trial is entitled to approach Supreme Court under Article 32 for the purpose of enforcing such right.

Department of Empowerment of Persons with Disabilities (DEPwD) has launched Accessible India Campaign (Sugamya Bharat Abhiyan) as a nation-wide Campaign for achieving universal accessibility for Persons with Disabilities (PwDs) as per the Rights of Persons with Disabilities Act, 2016 (RPwD)

The Government of India has launched National Helpline for Senior Citizens namely Elderline (Toll free number 14567), w.e.f. 01.10.2020 to provide support and guidance, to facilitate queries related to implementation of the Maintenance and Welfare of Parents and Senior Citizens (MWPSrC) Act 2007 and Government Policies and Programmes, To provide a grievance redressal mechanism for senior citizens.

Article 256 of the Indian Constitution provides for two important things firstly, it obliges the State governments to implement the laws, which are the laws passed by the State and Union Legislatures. Secondly, on failure to do so, the Union government is under an obligation to direct the State government to implement the laws. Thus, under the Constitution, a strict duty is cast on the State to ensure that there is compliance with every law. The informal modes of access to justice include Nyaya Panchayats, lok adalats, etc.

The Section 2(y) of RPwD Act defines reasonable accommodation as “necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others.

As per the Constitution of India Prisoners have basic legal rights that can't be taken away from them. The basic rights include right to food and water, right to have an attorney to defend himself, protection from torture, violence and racial harassment.

Under the section concerning Special Needs of Aged Prisoners in the ‘Model Prison Manual for the Supritendence and Management of India’ 2016 it is stated that the Chief Medical Officer shall ensure that the medical needs of aged prisoners in terms of ophthalmological care, dental care, physiotherapy, and clinical testing for diabetics are regularly attended to.

As per the Article 15 of the Indian Constitution, Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

While India has many strong and well-functioning institutions, the sheer scale of its ambition and efforts to implement the SDGs require a more comprehensive approach. A few issues which require addressing in this area are the role of national training institutions to spearhead the capacity development efforts on the SDGs, the need to assess current gaps (human, financial, technical etc.) across training institutions to develop capacities on SDGs, the scaling up of trainings to the state, district and local levels; and, the possibilities of leveraging existing training programmes under various schemes for SDGs. In order ensure the sustainability of capacity development efforts, there is a pressing need to map the learning trajectory on SDGs for key actors within the government.

#### **Best Practices:**

**1-Central Sector Scheme, 2018:** Implemented by the Ministry of Social Justice and Empowerment India to improve the quality of life of the Senior Citizens (Revised as on 01.04.2018) by providing basic amenities like shelter, food, medical care and entertainment opportunities and by encouraging productive and active ageing through providing support for capacity building of State/ UT Governments/Non-Governmental Organizations (NGOs)/Panchayati Raj Institutions (PRIs) / local bodies and the community at large.

**2-National Program of Health-Care for the Elderly (NPHCE), 2010:** The NPHCE is an articulation of the International and national commitments of the Government as envisaged under the UN Convention on the Rights of Persons with Disabilities, National Policy on Older Persons adopted by the Government of India in 1999 and Section 20 of “The Maintenance and Welfare of Parents and Senior Citizens Act, 2007” dealing with the provisions for medical care of Senior Citizen.

**3- National Council for Senior Citizens:** In pursuance of the National Policy for Older Persons (NPOP), a National Council for Older Persons (NCOP) constituted in 1999 under the Chairpersonship of the Minister for Social Justice and Empowerment to oversee implementation of the Policy and advise the Government in the formulation and implementation of policy and programmes for the aged. In 2012, the NCOP was reconstituted in order to encourage more participation from every region and renamed as National Council of Senior Citizens (NCSrC).

**4-Designing Online Dispute Resolution (ODR) Policy plan for India:** NITI Ayog India has designed a model of ODR which can help in not just dispute resolution but also in dispute containment, dispute avoidance and promotion of general legal health of the country and, delivery through virtual courts will increase access to justice and result in an affordable and citizen friendly legal system.

#### **Main Challenges:**

**1-Economic Concerns:** An ageing population and slower labor force growth affect economies in many ways—the growth of GDP slows, working-age people pay more to support the elderly, and public budgets strain under the burden of the higher total cost of health and retirement programs for old people.

2- **Elderly Abuse:** HelpAge India in 2015 conducted a survey on elder abuse in select urban centres of the country. The results of the study, published in 2015, showed that about half of the elderly population in the country faces some form of abuse, more in case of women than men.

**3-Older Women:** As older women are more likely to live alone. They suffer from financial problems and inadequacy or lack of access to public health facilities; they are more prone to mental health issues etc. Therefore, there is a need to cater to their needs with effective implementation of the existing schemes.

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