

HelpAge Deutschland
Arndtstraße 19
49080 Osnabrück
Germany
via Email: ageing@un.org

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SUBSTANTIVE INPUT
for the fourteenth session of the
GENERAL ASSEMBLY OPEN-ENDED WORKING GROUP
for the purpose of strengthening the protection of the human rights of older persons

Comments on Focus Area 1: Social Inclusion

HelpAge Deutschland focusses its engagement for the rights of older persons mainly in the so-called global South and less in Germany. Therefore, we comment on Focus Area 2 in view of global policies pertaining to all countries in the world. For answers to the questions relating to Germany in particular, we refer to the answers given by the German government, German National Human Rights Institute (DIMR) and by German National Association of Senior Citizens' Organizations (BAGSO).

Inclusion means that people no longer must adapt their lives to existing structures. Rather, society is called upon to create structures that enable every person to be a valuable part of society from the very beginning.¹

The human rights principle of inclusion is closely linked to the prohibition of discrimination, which can be found in all international human rights treaties, as well as to the recognition of diversity. Inclusion is also closely linked to self-determination, the fundamental concept of human rights, and is a prerequisite for participation.²

However, the idea that inclusion is not synonymous with integration is only slowly gaining acceptance - also in the policy fields. After years of discussion, a small success has been achieved in Lower Saxony: The coalition agreement of 2022 stipulates that the building regulations will be amended so that housing construction will be designed to be inclusive in future, so that people with disabilities and older people can remain living there and thus live in their familiar surroundings.³

¹ <https://www.stmas.bayern.de/inklusion/begriff/index.php>

² Rudolf, Beate (2017): Teilhabe als Menschenrecht – eine grundlegende Betrachtung. In: Diehl, Elke: Teilhabe für alle?! Lebensrealitäten zwischen Diskriminierung und Partizipation, S. 13–43, hier S. 36–37.

https://www.bpb.de/system/files/dokument_pdf/10155_Teilhabe_fuer_alle_ba_171019.pdf

³ https://www.spdnds.de/wp-content/uploads/sites/77/2022/11/Unser_Koalitionsvertrag.pdf Page 22ff and Page

This has not yet been achieved at national level but is still being pursued by German civil society as another important interim goal for achieving full inclusion.

About the social inclusion of older people, there is a considerable urban-rural divide in Germany. The rural population has to contend with other aggravating factors, such as inadequate public transport and a lack of information about participation opportunities. It must also be ensured that the relevant information is accessible and usable for older people.⁴ Other sectors missing adequate access to full social inclusion are identified in the health sector as experienced during the Corona pandemic and digitalisation, life-long learning / education. In many areas, Social Code IX (Soziales Gesetzbuch IX – SGB) is intended to guarantee social inclusion, but there are still considerable gaps to enable or facilitate services for equal participation in life in the community (Art 76 SGB IX)

However, the law only applies to people whose mental, psychological, physical or sensory impairment significantly restricts their participation in society or sensory impairment and who are referred to care insurance benefits (Social Code XI). The path to benefits for social participation (SGB IX) is usually closed to them, as the Federal Social Association vdk (Sozialverband vdk) points out. *The current measures do not take into account that older people who only realise their disability at a late stage and after a long working life also have a right to a self-determined life and social participation, and thus represent a significant normative gap in the law.*⁵

Even the German Basic Law (Deutsches Grundgesetz - GG) formulates and grants: *All human beings are "born equal in dignity and rights" (Article 1 of the Universal Declaration of Human Rights)*. However, age is not one of the grounds for discrimination in Article 3 of the Basic Law and thus still is a normative gap in granting the enjoyment of all human rights for older persons. Closing the gap in the Basic Law would lead automatically to adjustment of existing.

While in Germany at least the problem is moderately recognised, and as far as social support is concerned, social inclusion plays a rather subordinate role, especially in the Global South, where issues such as malnutrition and combating poverty dominate the agenda, which is understandable, but the fundamental importance of social inclusion must not be lost sight of, as *UN Secretary-General Guterres had already pointed out in his policy brief in 2020, calling for strengthening social inclusion as well as solidarity and stressing the obvious gaps in the legal protection of older people.*⁶

Currently, only 47% of the world's population is covered by at least one social security system, with only 25% in LMICs. Universalistic welfare regimes exist in only about 10% of Southern countries. Even some large MICs have only marginal social security, e.g. India, Indonesia, Nigeria, which are reaching their limits due to demographic development and economic challenges and therefore have only implemented an imperfectly inclusive benefit

⁴ Rechte älterer Menschen. Recht Älterer auf Gesundheit – Soziale Inklusion – Debriefing 25.01.2024 page 21 [file:///C:/Users/DrJ%C3%BCrgenFocke/Downloads/Dokumentation Rechte aelterer Menschen auf Gesundheit soziale Inklusion Debriefing.pdf](file:///C:/Users/DrJ%C3%BCrgenFocke/Downloads/Dokumentation%20Rechte%20aelterer%20Menschen%20auf%20Gesundheit%20soziale%20Inklusion%20Debriefing.pdf)

⁵ <https://www.bar-frankfurt.de/service/reha-info-und-newsletter/reha-info-2022/reha-info-052022/sozialeiteilhabe-aelterer-menschen.html>

⁶ <https://www.un.org/development/desa/ageing/wp-content/uploads/sites/24/2020/05/COVID-Older-persons.pdf> Page 3

system for the elderly in particular.⁷

WHO emphasises the positive effects of social inclusion and does not limit this to social services alone but calls for the entire environment to be considered and included,⁸ i.e. also taking into account the positive physiological aspects and linking them to other activities, such as maintaining cognitive abilities, as described by the World Social Report 2023.⁹

Both the UNECE Ministerial Conference on Ageing 2022¹⁰ in Rome and the Multistakeholder Meeting on the human rights of older persons¹¹ in Geneva in 2022 discussed i.a. the topic of “social inclusion” but highlighted that so far that in all discussions only particular areas of consideration for the full participation of older persons and thus the implementation of social inclusion are taken into account.

Both concluded their final reports that only a new legally binding document can eliminate this gap for the full social inclusion of older persons in all areas of their lifespan. This document than would outline and protect the rights of older people in our ageing world and provide signatory states with guidelines for their obligations.

⁷ Prof. Lutz Leisering: Keynote: Social security at VENRO, February 10th, 2023

⁸ <https://www.decadeofhealthyageing.org/>

⁹ <https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2023/01/2023wsr-fullreport.pdf>

¹⁰ https://unece.org/sites/default/files/2022-10/ECE-AC.30-2022-2-E_0.pdf

¹¹ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/615/30/PDF/G2261530.pdf?OpenElement>