

## **Equality and Non-discrimination**

### **1) Does your country's constitution and/or legislation**

**(a) guarantee equality explicitly for older persons or people of all ages and  
(b) forbid discrimination explicitly on the basis of age? If so, how is the right to equality and non-discrimination defined?**

The well-being of senior citizens is mandated in the Constitution of India under Article 41. "The state shall, within the limits of its economic capacity and development, make effective provision for securing the right to public assistance in cases of old age". The Right to Equality is guaranteed by the Constitution as a fundamental right. The Government of India is a signatory to the Madrid Plan of Action and the United Nations Principles for Senior Citizens adopted by the UN General Assembly in 2002, the Proclamation on Ageing and the Global Targets on Ageing for the Year 2001 adopted by UNGA in 1992, the Shanghai Plan of Action 2002 and the Macau Outcome document 2007 adopted by UNESCAP. The statutory provision for maintenance of parents under Hindu personal law is contained in Sec 20 of the Hindu Adoption and Maintenance Act, 1956. This Act imposes an obligation on Hindu children to maintain their parents. Children have a duty to maintain their aged parents even under the Muslim law. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, further strengthened the law on equality and non-discrimination of senior citizens.

### **2) Does your country produce information about discrimination against older persons in the following or other areas? If so, what are the main findings?**

- **Employment** - Decreasing the retirement age still remains one of the populist policies of young nations like India. Of more than 11 crore elderly people in India who are above the age of 60 years, nearly 90 per cent of them who are associated with the unorganised sector are not included in any sustainable social security programme. While some three crore elderly people who are under the 'below poverty line' category get about Rs. 500 as old age pension, the remaining eight crore have to fend for themselves.

- **Access to goods and services** - According to a study conducted in 2016 by Agewell Foundation, 65 per cent of old people are poor with no source of known income. The remaining 35 per cent still have money, properties, savings, investments, inheritance and above all supportive children.

- **Social protection**

The government offers pensions, travel concessions, income tax relief, medical benefits, extra interest on savings, and bank credit. Besides these, financial support was provided for Homes, Day Care Centres, Medical Vans, Help Lines etc are extended currently.

- **Health care** - To implement the National Policy on Older Persons, 1999 and the Maintenance and Welfare of Parents and Senior Citizens, 2007, the Ministry of Health and Family Welfare had launched the National Programme for Health Care of the Elderly (NPHCE) to address various health related problems of elderly people. NPHCE offers a community-based Primary Healthcare approach.

- **Justice, Inheritance** – Under Maintenance and Welfare of Parents and Senior Citizens Act, 2007 Parents, grand-parents and senior citizens who are unable to maintain themselves from their own income and property are entitled to demand maintenance from their children with sufficient means. Maximum amount for maintenance shall not exceed Rs. 10,000/- per month. Under Section 24, any responsible person abandoning senior citizens shall be punishable with imprisonment of either three months or fine upto Rs. 5,000 or both. The offence would be cognizable and will be tried by a Magistrate. Under Section 23, provision has been made for the elderly to claim their property back from children.

- **Decision-making and autonomy, Living environment** – Research studies have shown that decision-making role of the elderly in buying and selling

property, buying household items, and involvement in social life, whether in public meetings or religious programmes is very limited.

- **Other areas (please specify)**

The Kerala State Old Age Policy 2006 ensures affordable health care facilities to all aged people. Under this scheme the state government is registering police case against those, who neglected and avoid their aged old parents. The first state to adopt the 'Parents Maintenance Act' was Himachal. It is providing land for the benefit of the elderly persons. The Government of West Bengal's 24-hour helpline called "Pronam" offers psychological and physical security to the elderly in the city of Kolkata and provides ambulance and hospitalisation services.

**3) Is there information available about inequality of opportunities or outcomes experienced by older persons in the following areas?**

- **Availability of, access to and quality of health care services**

The elderly targeted programmes of government have overlooked the shortage of care-givers of the beneficiaries. Healthcare services lack specialized equipment and trained geriatric healthcare teams.

- **Financial services**

Ministry of Rural Development's Indira Gandhi Old Age Pension Scheme ensures a monthly pension of Rs.200 for for below poverty line persons of 60-79 years and Rs. 500 for those above 80 years.

**4) Are there any areas where differential treatment based on old age is explicitly justified? Examples:**

- **Access to goods** - Food security schemes like Annapurna give extra 10Kg of foodgrains every month to senior citizens.

- **Mandatory age of retirement** The retirement age of government employees is 60 years. Supreme Court judges retire at 65. There is no fixed retirement age in private sector. Self-employed people do not face age limits. General practitioners must retire from the General Medical Services scheme at age 70 – this is a statutory provision.

- **Age limits in financial services and products** Members of Employees Provident Fund (EPF), a government-mediated retirement fund, at age of 58 years EPF subscription ends. The Insurance Regulatory Development Authority (IRDA) directed entry into health insurance scheme till 65 years of age.

- **Age-based benefits.** Separate queues for older persons in government hospitals.