



Ageing Nepal Submission on Access to Justice

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Introduction

Older people in Nepal often find themselves marginalized by society and by our justice systems. Therefore, older people seeking justice are often prevented from getting it as they usually face ageism. There are no specific policies in the Constitution of Nepal that strongly guarantee the access to justice for older people.

A case of an elderly

A 78 year old woman in Nepal said, “I have never been abused not even by my husband. But, when I crossed 60 my husband died, after then my neighbor started to abuse me verbally. I tried to raise my voice against it, but no one trusted my word because of my age. It has become a barrier for communication. People think when someone gets older they start blabbering useless things. In this situation, how can we seek justice and where?”

Some of the common obstacles in accessing legal services in Nepal

- 1) Lack of financial resources is one of the biggest hurdles in accessing justice for older people. Most elderly depend on old age allowance or pension which doesn't cover even the cost of their basic needs. Restrictive nature of legal aid and lack of community support make it extremely difficult for elders to access the justice.
- 2) Effective communication about their legal needs is another common hurdle. The ability to communicate effectively diminished due to the

cognitive and physical limitations that normally come up with age. Due to this, many elders fail to inform their legal needs to the concerned legal authority.

- 3) In Nepal, due to cultural diversity their views affect their willingness to approach the legal system. For example, the majority of older people believe that, if they face any injustice or discrimination it should be kept within them to protect their family honor. So, they often do not approach the legal system.
- 4) In post-modern times, the most common way to access information is through internet. Majority of older people in Nepal are not even basic literate. Consequently, they cannot use modern technology like computer. Hence, they typically rely on the scanty available legal and community support to meet their legal needs- for example old libraries.
- 5) Majority of older people in Nepal takes no meaningful action for their legal problem, thinking nothing can be done. They are unaware about their legal rights and have fear that the process is too costly and time taking.

Existing legal assistance for older people in Nepal

- 1) Irrespective of any law, case related to older people either in their favor or against them, will get priority and further action will be taken accordingly.
- 2) Irrespective of any law, case of helpless and disable older people either in their favor or against them, will require a legal person to advocate for them.
- 3) Older people with poor economic background can submit letter at court stating the requirement of a legal person to advocate them. Then, concerned court will be obliged to make necessary arrangement.

Measures to ensure access to justice in Nepal

Availability and accessibility

- 1) Justice entities and related emergency and support services such as legal aid, shelters, hotline and counseling should be maintained, funded, affordable and available to all older people in whatever setting they live.
- 2) Courtrooms, legal tribunals and other justice-related facilities should be accessible to all older people.
- 3) Older people should have access to alternative, non-judicial pathways to justice, such as one-stop community justice centers, community mediators, paralegal support, complaints and grievance procedures, or specialist commissioners or inspectors.
- 4) Reasonable accommodation should be made for individual older people's support needs to enable them to access justice and victim support.
- 5) Information and public education programmes about their legal rights and access to justice should be made available to older people in appropriate and accessible formats.
- 6) Older people should be supported to participate effectively at all stages of legal proceedings.
- 7) All older people, without discrimination, should have access to the necessary documentation to enable them to claim their rights and seek redress if their rights have been denied.
- 8) All those working in the administration of justice and law enforcement, including the judiciary, police and prison staff, should have adequate and appropriate training on ageing and the rights of older people.

Remedies and Redress

- 1) Older people should have access to prompt remedies and redress, which are appropriate, effective and holistic, including rights of appeal, restitution, indemnity, compensation and reparation.
- 2) Older people should not be discriminated against on the basis of their age in the award of any damages.
- 3) Non- judicial dispute resolution mechanisms, such as ombuds procedures, specialist inspectors or commissioners, community mediators, paralegal support and complaints and grievance mechanism, should be available to older people.