



## **International Symposium on the Rights of Older People**

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**Background briefing paper**

### **The Rights of Older People in Asia**

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## 1. EXECUTIVE SUMMARY

Asia is the fastest ageing region in the world. Presently half of the world's older people live in Asia, and in the coming fifty years two-thirds of the world's older population will be residing here. Asia has experienced various development processes, political and economic upheavals that have had a multidimensional impact upon ageing in the region. The increase of the older population in Asia is closely linked to other emerging challenges: migration, urbanization, changes in labour dynamics, family structure and, epidemiological transitions. However, in such a diverse region, responses to these demands vary from one country to another.

Despite the international discourse and various international mechanisms that make reference to the rights of the elderly, a national-level human rights focus has not yet emerged in the Asia region. In the given context, most Asian countries are striving to incorporate international elderly rights norms into domestic-level commitments and actions through constitutional, legislative and policy provisions and programmes directed towards the protection, promotion and fulfilment of elderly human rights. However, few have been able to take these provisions beyond the rhetoric. The visible difference between *de-jure* and *de-facto* status of state obligations is primarily due to a lack of effective implementation, enforcement procedures and the adoption of a welfare-oriented approach instead of rights-based framework.

Given the complex socio-political setting of the region, it is difficult to make a general assessment of the accountability of states. However, a broad view of the region shows us that states in Asia are barely able to cope with the ongoing global discourse and the rapidly changing realities on the ground regarding their elderly rights obligations. Seemingly, the efforts to protect and fulfil their obligations towards the rights of the elderly have been fragmented. Thus the human rights of the elderly, reaffirming the principles of independence, participation, care, self-fulfilment and dignity, remain a distant reality. Changing population patterns also catalyze many challenges for older people, for example: poor health, prolonged dependency, isolation, social insecurity and increased economic deprivation. The elderly, on the basis of their gender, geographic location, socio-economic status and physical and mental abilities, are impacted differently by these challenges.

Critical human rights concerns in the region, such as chronic poverty, prevalence of HIV/AIDS, internal displacement, natural disasters and armed conflicts, draw the ageing population into a downward spiral of persistent violations of their rights. This in turn adversely impacts upon their quality of life encompassing physical, emotional, social and economic well being. Inadequate and ineffective social security systems, along with stereotyped attitudes towards ageing, further increase the vulnerability of the elderly in the region. Absence of nuanced, targeted and comprehensive approaches towards the rights of older people leave them with chronic poverty, untreated illness, homelessness or inadequate shelter, violence and abuse, lack of education, low paid jobs, ineffective legal protection, vulnerability, exclusion and isolation. The general perception of older people that views them as victims, objects of pity or burdens, also obstructs their continuing right to pursue opportunities for the development of their potential. Direct and indirect discrimination and indifferent attitudes towards older people impede them from participating in all aspects of political, economic, social and cultural life of society, as well as in the decision-making concerning their well-being. Discrimination has a twofold impact on older women who also face inequality and denial of their human rights as women.

A closer engagement with the realities of older persons' lives reveals the huge disadvantages and challenges being faced by them due to the lack of recognition of their rights. There is a need for establishing the elderly as rights holders and ascertaining states' obligations for the

fulfilment of their entitlements. Using a human rights framework to address the violations against older people will not only provide a powerful language for demanding state accountability towards the protection of elderly rights, but would also broaden our understanding of the rights of older people to be more universal and interlinked with other human rights. It would strengthen the consensus amongst various stakeholders working for realization of rights and would catalyze the creation of an enabling environment wherein the elderly are able to claim and enjoy their rights.

## **2. METHODOLOGY**

The objective of this paper is to present a synopsis of a situation analysis on the status of elderly rights in Asia. The paper also attempts to look into types of violations being experienced by older people and the legislative and policy provisions made available by state parties in order to protect and fulfil older people's entitlements. It is to be recorded at the very outset that the paper is based on analysis of secondary information available on the internet, including briefing papers, articles, research reports/abstract, and electronic newspapers. During the information collection process, a scanning of case records of the Supreme Court of India and two High Courts (Delhi and Allahabad) was also undertaken and discussions were held with local activists intervening in cases related to violence against women, including elderly women. While collecting information, the author also visited a local geriatric home and state run shelter home and met with doctors and administrative personnel. As there is not much material available on elderly rights in Asia, the paper has its limitations. The information given here is representative and not exhaustive.

## **3. KEY FINDINGS**

In most of the Asian countries, states have taken measures to provide legislative protection and policy provisions for the enjoyment of elderly rights. However, due to the absence of specific international standards, this legislation is not well equipped to provide effective redress for the claimants. The majority of the legislation is one-dimensional protecting elderly rights to care and maintenance in family settings, and does not take into account the other UN principles i.e. *independence, participation and self-fulfilment*. There are certainly inherent flaws and limitations to some of the domestic legal provisions and procedures. A pragmatic analysis of these provisions through a human rights lens reveals the inherent normative and implementation gaps demanding urgent amendments.

There are a variety of policy structures across different countries and their focal areas have been health, nutrition, long-term care, social security and welfare programmes benefiting older persons emanating from a welfare-oriented approach. There is a need to evolve more proactive, inclusive and comprehensive provisions targeting the ageing population. The approach adopted by various state and non-state actors has been fragmented and unilateral thus demanding increased interlinkages and cohesiveness amongst all concerned with working in these areas. Even advocates for the aged are not using the human rights framework at domestic and regional level. They certainly need to acquire the human rights language to sharpen the analysis of state actions and strengthen their demand for state accountability towards the elderly. Though most countries have achieved a certain degree of success in raising public awareness on ageing and placing the issue on their national policy agendas, much has to be done with

regards to effective implementation and application of the provisions, particularly in relation to social attitudes and resource allocation.

As is evident from various case studies, the elderly in Asia are facing continuous human rights violations and are making claims for their rights. There remains a constant struggle for the aged community across the region.

#### **4. AGEING IN ASIA**

We, he said, are like cigarette lighters worth 100 yen, or less than \$1. "It's painful to throw away a Zippo or Dunhill lighter even if it doesn't light properly anymore," he said. "But 100-yen lighters you just throw away. That's what we are."<sup>1</sup>The words of Mr Kazuyasu Ikeda, a 64 years old daily wager living in Osaka (Japan), might sound harsh but they resonate the emotions of millions of elder persons living in Asia.

According to UNESCAP (United Nations Economic And Social Commission for Asia and the Pacific), Asia is the fastest ageing region in the world. "In the last 40 years, life expectancy in China has risen by 31 years, in the Philippines by 21 years and in Bangladesh by 20 years. Just over half of the world's older people currently live in Asia but, by 2050, Asia will be home to almost two-thirds of the world's older population. Such demographic changes have enormous implications for governments, non-governmental organisations (NGOs), families, and for older people themselves"<sup>2</sup>. In conjunction with the varied socio-political and economic situations in Asian countries, the region faces diverse challenges with regards to demographic ageing. Along with the biological, physical and economic attributes of ageing, there is also a strong socio-cultural aspect that captures the attention of academicians and practitioners in Asia - a melting pot for diverse cultures, traditions, and religions for centuries. Much has been written about the centrality of filial piety in Asian cultures, highlighting the principles of respect, duty and harmony that stem from the multicultural and philosophical canvas of the region: namely, Confucianism, Islam, Hinduism and Buddhism. Traditionally in the region, older members of the community are seen as repositories of knowledge and it is the responsibility of the family to provide care, emotional and financial support to them. However, this has not kept the elderly protected from abuse, neglect and isolation in their twilight years. The philosophy of 'benevolently giving all for the betterment of the next generation' has been deeply entrenched in the ethos of ageing here and very often this "giving away" i.e. exhausting all resources in the prime years leads to "giving in" to a physically, socially and financially vulnerable position in old age.

Over the decades the dynamic socio-political-economic framework of development in Asia has had a multidimensional impact upon the ageing. "Rapid population ageing makes new demands

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<sup>1</sup> Source : International Herald Tribune :A leftover city of day laborers in Japan faces grim future, By Norimitsu Onishi, Published: October 12, 2008

<sup>2</sup> HelpAge International, Asia Pacific

on a region that has been dominated by children. Yet preparedness varies widely. Japan and Singapore, which are relatively far ahead in the ageing process, have adopted comprehensive health care and pension systems. In most Asian countries, however, where the shift to an older population is just beginning, policy responses have been slower. Even where policies exist to cope with population ageing, they often are unsustainable or ill suited to the needs of ageing societies. Population ageing presents many challenges to societies and economies, but three of these are especially important i.e. health care for the elderly, ensuring economic security for older people and sustaining economic growth in Asian countries”.<sup>3</sup>

Most of the countries in Asia are facing challenges interlinked with population ageing, such as: migration, urbanization, changes in labour dynamics, family structure and epidemiological transitions. While these impact the entire population pyramid, the elderly remain the most affected ones. “Living arrangements for older persons, including familial co-residence and independent living, have had a tremendous impact on family support in Asian countries. Asian older persons live with their children, even in the developed countries like Japan in this region; the proportion of the aged living with children to living independently, is much higher than its Western counterparts. However, with the rapid economic growth, better living conditions, more migration of younger people to urban areas and the increasing desire of the children and old parents to have more independent life, like in many developed countries, the elderly living alone or living in old couple homes have been increasing”.<sup>4</sup>

## **5. PROTECTION OF ELDERLY RIGHTS : TRANSLATING COMMITMENTS INTO ENTITLEMENTS**

The extent to which we protect and promote the rights of older people reflects how we protect and promote rights in general.<sup>5</sup> Older person’s rights are explicitly set out in the key international and regional human rights instruments and mechanisms, and reflect the changing demographic realities, needs and perspectives of developing countries. The efforts made at international platforms for recognition, protection and promotion of elderly rights are reflected in the progress made at domestic level in the region where states have tried to integrate these commitments in domestic-level policy, legislative and administrative provisions. Many Asian countries have constitutional guarantees enshrining the right to equality and non-discrimination. However, fewer countries have been able to take this beyond rhetoric by applying effective enforcement procedures, particularly in the case of elderly rights. Countries like China, Sri Lanka, Philippines,

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<sup>3</sup> Source : As Asia population ages, worries grow about the future, Andrew Mason, Sang Hyop Lee, Gerard Russo, Asia Pacific Issues, East West Centre

<sup>4</sup> Changing Environments and Older Persons in Asia : Expert Group Meeting on the Regional preparations for the Global Review of Madrid International Plan of Action on Ageing, 27-29 March 2007, Bangkok, Economic And Social Commission For Asia And The Pacific

<sup>5</sup> Source The mark of a noble society: Human rights and older people, HelpAge International

India, Israel and Nepal have enacted specific legislation for the protection and maintenance of the elderly. Besides the constitutional guarantees and legislation, there are also civil and criminal procedures that could be used to redress violations faced by the elderly.

The domestic legal scenario for elderly rights in the region is quite dynamic and is changing rapidly to keep up with the momentum at international level. This makes it harder to attempt any generalization. However, there are certainly inherent flaws and limitations to some of the domestic legal provisions and procedures that add to the disparity between de-jure and de-facto situations of the elderly.

Elderly-specific legislation in the region is mostly one-dimensional: protecting older people's right to care and maintenance in family settings, but does not take into account the other UN principles i.e. *independence, participation and self-fulfilment*. However, these provisions can get substantiated by domestic case law upholding the rights of the marginalized, including the elderly. One example is the directives from the Supreme Court of India on the right to food campaign. In India the Right to Food Campaign has placed hunger at the centre of the rights discourse in the country. In this particular case, the petition was filed at the Supreme Court of India by the People's Union for Civil Liberties in April 2001 to seek legal enforcement of the right to food. The first major interim order of the Supreme Court in this PIL focused on 8 food-related schemes<sup>6</sup>. The basic idea of this order was that, at the very least, the government should be held accountable to what it claims to be doing to protect the right to food: i.e. implement these food-related schemes. In subsequent interim orders the Court has identified the aged as the priority group particularly for schemes like Antyodaya Anna Yojana, National Old Age Pension Scheme and Annapurna Scheme.<sup>7</sup>

*Legal Protection of The Elderly in India : A snapshot*

*India: In the Constitution of India, entry 24 in list III of Schedule VII deals with the "Welfare of Labour, including conditions of work, provident funds, liability for workmen's compensation, invalidity and old age pension and maternity benefits. Also Item No. 9 of the State List and items 20, 23 and 24 of Concurrent List relates to old age pension, social security, social insurance, and economic and social planning. Further, Article 41 of Directive Principles of State Policy has particular relevance to Old Age Social Security. According to this article, "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 case of unemployment, old age, sickness and disablement and in other cases of undeserved want".*

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<sup>6</sup> (1) the Public Distribution System (PDS); (2) Antyodaya Anna Yojana (AAY); (3) the National Programme of Nutritional Support to Primary Education, also known as "mid-day meal scheme"; (4) the Integrated Child Development Services (ICDS); (5) Annapurna; (6) the National Old Age Pension Scheme (NOAPS); (7) the National Maternity Benefit Scheme (NMBS); and (8) the National Family Benefit Scheme (NFBS)

<sup>7</sup> Source : Right to Food Campaign, India

*The Government has recently enacted 'The Maintenance and Welfare of Parents and Senior Citizens Act, 2007' - a landmark step indeed. There have also been other legal provisions for the maintenance of parents. Section 125 of the CrPC, 1973, states that an individual is bound to maintain his parents, wife and children: if a man with the means to maintain his family refuses to do so, the dependents can claim maintenance under the Act; allowance can also be claimed under Section 12 of the Human Rights Protection Act, 1993. The Hindu Adoption and Maintenance Act, 1956, also has provisions for parents. However, a scan of Supreme Court and two High Courts' (Delhi and Allahabad) cases reveals that there are barely 3-4 instances where parents have resorted to these provisions to claim maintenance from their children. In the majority of cases, the provisions are used by wives to claim maintenance from husbands. Similarly the PWDVA (Protection of Women from Domestic Violence Act) provides remedies to women facing domestic violence – not just as wives, but also as mothers, sisters, daughters and live-in partners. There have been cases where mothers have accessed this law - but again their number is meagre as compared to wives resorting to PWDVA. (Source Review from records of AALI, by author, Nov.2008)*

It is not just the unilateral, protectionist nature of the laws that causes concern for academicians and practitioners advocating for the human rights of the elderly. Besides substantive gaps in these provisions, there are structural and cultural impediments limiting the usage and application of the law. One of the main challenges faced by caseworkers working with harassed, abused and neglected parents, is that they are actually not prepared to take their children to the courts. The survivor cannot take a tough stand against the opposite party (children) and does not want to initiate criminal proceedings. Instead, they prefer mediation and non-legislative measures to address the issue. It has been observed that in a majority of cases, lack of access to resources, information about legal rights, frail health and worry about long drawn out court proceedings prevent the survivors embarking on litigation. To ensure optimal and effective application of elder laws, reforms in legal procedures/practices and focused implementation strategies must be given priority by the State. Priority needs to be given to institutional reforms, resource allocation for law enforcement, complementary social policies and legal awareness at domestic level.

*Economics of law – who feels the pinch?*

*PHILIPPINES: "Senior citizens are bad for marketing and profits. In[ the] 2000 census, they constituted only 4 % of the population. They do not represent a large-enough population segment to attract the attention and budgets of mass merchandisers whose focus is on the very young and their parents. That is why the drugstore associations have been fighting the **20 % discount required by law on the senior citizens' purchases of prescription medicines.** [The] Supreme Court upheld the Senior Citizens' Act against the drug companies' petition. Most government officials and politicians, like merchants, are guided by the demographic disadvantage of our senior citizen population—not by what is right. Since there are less seniors than the younger Filipinos, they have to get a smaller piece of the pie. As a result, lawmakers decided to subject seniors' purchases in the operation of the EVAT. **The 12 % tax on purchases reduced the Senior Citizens Act's 20 % discount to 8 %.** Sen. Edgardo Angara, who co-authored the original Senior Citizens' Act, and authored the expanded SCA, is now working for the passage of his new bill to exempt seniors from the EVAT. Since Finance Secretary Teves has vigorously opposed Angara's proposed measure, it is almost sure it will never become a law." (Source : Nobody cares for the elderly anymore by Rene Q. Bas, Editor in chief, Manila Times, January, 13, 2008)*

“Since elderly rights are more pronounced in the realm of economic, social and cultural rights, they are also seen as ‘rights of progressive implementation’ i.e. states are not immediately required to fully realize those rights in their jurisdictions, as they are only goals or aims that will be attained to the maximum of the states’ available resources”<sup>8</sup>. These rights are less commonly articulated in national constitutions or recognized by courts and are often fulfilled through appropriate policies, programmatic and administrative interventions. According to the report of the UNESCAP regional review, most countries in Asia have developed policies and are implementing interventions to address the needs of older people. Countries with better resources such as Hong Kong, China, Japan and Singapore have prioritized the promotion and provision of opportunities for continuing education and retaining mature workers beyond the compulsory age of retirement. However, in Western Asia there has been little progress in formulation of national policies for older people with only four countries – Bahrain, Jordan, Qatar and Syrian Arab Republic- drawing up guidelines for doing this.<sup>9</sup> The majority of countries in South East Asia have developed national programmes and policies on ageing. “All of the countries in the South East Asia region have national policies that encompass elderly care management. Some countries such as Bangladesh, India, Indonesia Maldives, Sri Lanka and Thailand have specific and precise national policies for the elderly”<sup>10</sup>.

There are a variety of policy structures across different countries. Thematically the focal areas have been social security, health, nutrition shelter, long-term care, welfare programmes benefiting older persons, including old age pensions; allowances for widows and distressed and deserted women. After reviewing policies on ageing in the region, it can be argued that while most countries have achieved a certain degree of success in raising public awareness on ageing and placing the issue on their national policy agendas, much has to be done with regards to effective implementation and application of the provisions, particularly in relation to social attitudes and resources allocation. Despite the above-mentioned constitutional, legislative and policy provisions, demanding that states fulfil their obligations to recognise, protect, and promote elderly rights remains a constant struggle for the elderly community.

## **6. REALIZATION OF RIGHTS – AN INDIVISIBLE PARADIGM FOR THE AGED**

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<sup>8</sup> Global Social Justice for Older People: The Case for an International Convention on the Rights of Older

People, by Kwong-Leung Tang and Jik-Joen Lee, British Journal of Social Work (2006)

<sup>9</sup> Source : Population Ageing and Development, Operational Challenges in Developing Countries, UNFPA, 2002

<sup>10</sup> Source WHO, Regional Office of South-East Asia

In principle all human beings have the same indivisible rights, including older people, although elderly rights are not clearly manifested in regional and national human rights discourse and practice. The rights of the elderly have been recognized and are to be promoted, protected and fulfilled in order to ensure that elder persons are able to claim and enjoy a life of dignity, security and independence. These rights are indivisible and interrelated, with a focus on the individual and the community as a whole; one right can not be separated from another or seen in isolation. Despite this, the approach towards elders' rights in the region has been fragmented and the efforts are piecemeal, leaving older people with chronic poverty, untreated illness, homelessness or inadequate shelter, violence and abuse, lack of education, low paid jobs, ineffective legal protection, vulnerability, exclusion and isolation. The changing population patterns in Asia also catalyze many challenges for older people, such as poor health, prolonged dependency, isolation, and socio-economic insecurity. These challenges draw the ageing population into a vicious cycle of persistent violations – one leading to another. Despite commitments at the international level and all the efforts made domestically, elderly rights remain on the periphery of the human rights agenda in the region. It is significant to mention here that while scanning for evidence of elderly rights violations, most documented cases were about crime against the elderly, elder abuse and neglect – this reveals the limited interpretation of elderly rights on the ground. Below are glimpses of how various socio-cultural, economical and political factors inhibit the elderly from claiming and enjoying the range of human rights<sup>11</sup>:

### **Right to a standard of living adequate for the health and well-being including adequate food, shelter and clothing**

Old age brings various physical, biological and psychological changes that might lead to illness, disability and sometimes, decline in physical and mental capacities. At this stage of life, increased economic deprivation and physical dependency also impacts upon accessibility of health services, long-term care, shelter and other 'welfare' services. The same views were echoed in consultations carried out by HelpAge International in Kyrgyzstan, where older people said they struggle to pay for expensive services and medication as they lack opportunities to earn money<sup>12</sup>. The elderly in the region also face routine denial of their right to food, for example 50 per cent of older people in rural Bangladesh suffered chronic energy deficiency and 62 per cent were at risk of malnutrition<sup>13</sup>. As the ageing population is heterogeneous in composition with different shades of diversities, the elderly, on the basis of their gender, geographical locale, socio-economic status, physical /mental abilities, are impacted differently by the above challenges.

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<sup>11</sup> Evidently due to limited nature of the paper, the narrative given here is representative and not exhaustive.

<sup>12</sup> Source : <http://www.helpage.org/Worldwide/EasternEuropeandCentralAsia/Keyprojects/@17776>

<sup>13</sup> Source : Population ageing wallchart, UN Dept of Economic and Social Affairs, 2006

*WEST BANK, Palestine: "Needing medicine can be a crisis for an elderly person: A pharmacist's story from Salfeet– "The other day an old woman came up to me in the pharmacy. She has a prescription for three medications, the total of 9 NIS (\$2.10 USD). She told me 'I have no money to pay for these.' I felt bad for her and gave her the money. I often deal with old patients who are too poor to buy the medications prescribed by the doctor. They ask: 'which one is the most important? I can't afford both.'"(Source: From the MDM report, The Ultimate Barrier, 2004)*

HIV/AIDS is a critical concern in most of Asian countries particularly in South East Asia with the estimated number of HIV cases in Asia reaching up to 10 million by 2010, more than double current levels. The high incidence of HIV/AIDS in the region has put an extra burden on older people – they often have to care for family members living with HIV, and children whose parents have died of AIDS.<sup>14</sup> HelpAge International's experience in Thailand (one of the countries with highest prevalence rate of HIV in the region) highlights older people's concerns, including lack of knowledge about the epidemic, absence of income security, the burden of care-giving and the strain HIV/AIDS places on family and community relationships. It shows that HIV/AIDS has had far-reaching economic, social and psychological effects on older people, destroying their hopes and security for the future, and bringing new responsibilities as household breadwinners and carers.

Another looming human rights concern that cuts across the region is internal displacement. Be it in Darfur, Afghanistan, Nepal, Laos, Myanmar or Philippines, the human rights violations faced by internally displaced persons (IDPs), particularly vulnerable populations including the elderly, raise critical concerns. Millions of people are displaced each year in Asia as a result of armed conflicts, human rights abuses and unbalanced developmental processes. Capturing the voices of internally displaced in four South Asian countries (Sri Lanka, Nepal, Bangladesh and India), a report by Mahanirban Calcutta Research Group highlighted that the major problems faced by elderly IDPs were lack of food, adequate shelter, clothing and deteriorating health conditions. They could not find jobs because of their physical weakness, the lack of skills required for the job, compounded by prevailing illiteracy. In addition to these problems, elderly IDPs suffered from poor eyesight, loss of hearing, other physical weaknesses, frequent psychological problems, and adjustment problems in the urban areas due to the differences in the way of life they were used to. They also felt that as they were illiterate and old, therefore, it was beyond their capacity to earn a living.<sup>15</sup>

*KYRGYZTAN: "In Kyrgyzstan, numerous impoverished citizens, most of them elderly, resort to begging for money. The elderly represent one of the poorest sectors of the population. Most live alone in ramshackle houses or in tiny apartments using their inadequate pensions, that average between 200-300 soms (US\$ 9), to fend for themselves confronting the lack of government attention and treating their medical ailments with expensive medications. Many elderly do not use electricity because it is too*

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<sup>14</sup> <http://www.helpage.org/Worldwide/AsiaPacific/GrowingoldinAsia>

<sup>15</sup> Source : Voices of the Internally Displaced in South Asia : A Report, by Calcutta Research Group (December 2006), published by: Mahanirban Calcutta Research Group, Kolkata, India, web: <http://www.mcrg.ac.in>

*expensive. Many cannot afford to buy coal to cook food in a stove. A never before married 65-year-old woman named Raisa Kipkaeva is one such example of an adopted Babushka. She lives alone in a tiny dwelling attached to a house with space only for a bed and a stove. For many years she has been sick with chronic bronchitis. Her pension is 275 soms a month, insufficient to afford medicine and have enough remaining to buy food.” (Source: Babushka Adoption Project: Helping the poor elderly in Kkyrgyzstan, by Anna Kirey, Department of Journalism, American University, Krygyzstan)*

## **Right to adequate economic and social security & protection**

“Older people are among the poorest of the poor for several reasons. Traditional family support is declining in virtually every country across Asia. Having worked for subsistence or very low wages, few elderly people have savings or other resources of their own for old age. Nor do they have access to job-based social protection benefits. Also, they may suffer from disabilities such as sight or hearing loss that restrict their ability to work”<sup>16</sup>. Age-linked physical limitations, economic dependency and social insecurity get even more pronounced in poorer populations, which make up the larger part of Asian communities. Like everyone else, older people have the right to work which gives them the right to freely decide, choose and accept work and the right not to be unfairly deprived of it. However, with age, the economic opportunities available to the elderly get narrowed down, thus forcing them into jobs with irregular or low remuneration.

*OSAKA, Japan: “With job signs stuck to their vans’ windshields and sliding side doors left open, the recruiters were sizing up the potential hires at Japan’s largest day-labor market here recently By 4:30 a.m., thousands of ageing day laborers had spilled out of the neighborhood’s flophouses and homeless shelters, or risen from its parks and streets, to form a potential work force of mostly graying men. Although the terms were comparatively decent, the recruiter had found only one suitably young laborer by 5 a.m. Most were above the unwritten cut off age of 55. “It’s really hard to use the men here because they’ve gotten old,” said the recruiter, turning his head toward his prize catch, a recruit in his 30s. “If you’re this young, everybody wants you and you get plenty of offers. Just look at how young you are!” (Source: A leftover city of day laborers in Japan faces grim future, Norimitsu Onishi, Oct12,08, IHT)*

Lack of an effective and adequate social security system in Asian countries further deepens the economic vulnerability of the elderly thus increasing their dependency on the younger populace. “The potential support for the elderly population comes from the economically active population. This support ratio is calculated on the basis of the proportion of the population aged between 15 and 64 to that aged 65 and above. With the decreasing fertility in Asia, this ratio will decrease from 11 in 1999 to 4 in 2050. In China, the ratio will drop from 10 to 3; in Hong Kong, the ratio

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<sup>16</sup> Source: Social Protection for Older People: A plan of action, Susanne Paul, Alischa Kugel  
Global Action on Ageing

will drop from 7 to 2. This means that by 2050, there will be only two younger persons potentially supporting one elderly person at the then population level in Hong Kong<sup>17</sup>.

*RAJSHAHI, Bangladesh : "Kadvan is a widow living in Taktapara village, Bagmara Upazila. She has no land or assets and no one to support her. She has a disabled son to support and she begs money to feed him. She hates begging but there are no other options. She has not yet received an Old Age Allowance nor Widow's Allowance. Kadvan is destitute. She asks: 'How long should I wait to be awarded the Old Age Allowance?'"(Source: Age Demands Action in Bangladesh, HelpAge International*

Similar concerns were raised by H.E. Mr. Chandra Wickramasinghe, the head of delegation at the Second World Assembly on Ageing in Madrid (2002). He highlighted that in Sri Lanka the old age dependency will increase from the then 5% to 24% by 2015 and to 32% by 2025. This situation is bound to have an effect on the overall economic and social development activities of the country including resultant budgetary burdens. This phenomenon of lowering support ratio and increasing old age dependency, along with the decreasing economic opportunities, denotes an alarming situation wherein the population of poor elderly dependent on the support of others (particularly the frail elderly), will increase multi-fold in the region. The decline in the support ratio for the older population will affect pension provisions, health and long-term care, inhibiting older people's right to economic and social security. Many poor older Asians do not have a contributory pension, and the family support which traditionally offered a safety net is now weakened.

Most people are unaware that poverty is emerging in the social context of daily life in Asia. There are numerous myths and popular notions about ageing in poverty:

If a country is on the Millennium Development Goals (MDGs) track, poor older people will be pulled out of poverty

Intergenerational transfers will pick up the costs associated with old age

Older people experience a low frequency of acute disease and can take care of themselves

Old age chronic diseases do not have a significant impact on a country's economy

Reverence for older people is timeless

Family care givers can cope on their own

Social status is not a determinant of ill health, isolation and abuse in old age

Intergenerational financial flows cannot serve to provide care for older people in developing countries.

Health security could prove especially problematic .

(Source: Ensuring social protection/social pensions in old age in the context of rapid ageing, HelpAge International - Asia/Pacific)

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<sup>17</sup> **Ageing Population and Gender Issues, Fanny Cheung, Department of Psychology, The Chinese University of Hong Kong.**

## **Right to be free from neglect, abuse, torture or cruel, inhuman or degrading treatment**

Ageing is generally associated with a decline in productive capacity and very often such perceptions result in abandonment, infringement of property and inheritance rights, and lowering of social status in the family and community. According to a World Health Organisation (WHO) South East Asia Regional Office report, elder abuse in Asian communities and within institutional settings has been largely unrecognized. It remains generally 'hidden' because older people find it shameful to admit that they are being abused and are ashamed of the stigma.

*LUCKNOW, India: Oblivious to all the international and national discussions on elderly rights, 75 year old widow Mrs. Kanti Devi sits on the edge of her bed in the local Geriatric Care home, eagerly waiting to go home. She has been asking visitors to call her family to inform them that she is fine now and ready to go home. Little does she know that she has been put under 'long-term care' for the next few months by her sons to ensure that her presence does not disrupt upcoming family and social engagements. Her nearly inflexible left arm (a condition that, according to the doctor, could have been rectified with surgical intervention) substantiates how she has been neglected by her three economically well off sons. Being the wife of a deceased Armed Forces personnel, she is entitled to a handsome monthly pension, but she can not claim it as she is dependent on her sons and daughters in law who have no time for her to access the institutions concerned. (Source: Field visit, author, Oct.2008)*

“As there has been limited collection of statistical data on abuse in less developed regions, the information on abuse, exploitation, neglect and abandonment of older persons culled from non-statistical sources such as criminal records, media reports, social welfare records and small-scale studies cannot be considered to be representative. Such information includes a finding in India, in which 40 of 1,000 persons from a sample in a rural area were found to be physically abused, whereas in a smaller sample, in an urban setting, of 50 persons aged 70 years and over, 20 per cent reported they were neglected in their households”.<sup>18</sup> Belittling of elders, neglect, violent and abusive practices, depriving older people access to material and social resources, are all violations of older people's right to dignity and the right to life free from violence. Exclusion of the elderly on the grounds of age, vulnerability and disability also add to the infringement of these basic human rights.

*TURKEY : “A cross-sectional study involved 497 subjects selected by cluster sampling to determine and compare the prevalence and risk factors of elder abuse in [the] elderly population in two different districts in Izmir, Turkey – revealed that the prevalence of physical and financial abuse among the elderly in the district of low socioeconomic status was 1.5% and 2.5%, respectively, while among the elderly in the district of high socioeconomic status, it was 2% and 0.3%, respectively. However, the prevalence of elder neglect in the two districts was 27.4% and 11.2%, respectively. Prevalence of neglect was associated with infrequent contact with relatives, little or no income, and fewer years of education among the elderly in the low socioeconomic district. In the high socioeconomic district, neglect was associated with fewer years in education, poor health status and having chronic status. While the study concluded that*

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<sup>18</sup> **Ageing Issues in India: A Summary, Based on Information compiled by Research and Strategic Development Department, HelpAge India June 2007**

*prevalence of abuse among the elderly living in the two different districts was low. However, nearly one-fifth of elderly people were exposed to neglect.” (Source : Elder abuse and neglect in two different socioeconomic districts in Izmir, Turkey, International psychogeriatrics ISSN 1041-6102)*

## **Right to equality, non-discrimination and participation**

While overt age discrimination has reduced in general, it still persists in more subtle and indirect ways. Age discrimination also gets more pronounced in emergency and disaster situations, with health concerns adding to their vulnerability. Asia has been witnessing political social upheavals, conflicts and insurgency for several decades, and the elderly, along with women and children, have been the prime victims of such turbulent and debilitating situations (for example, in Cambodia, Vietnam, Sri Lanka, Afghanistan and other parts of the region). During its relief and rehabilitation experience in Aceh, Indonesia, HelpAge International staff observed that older people, while recognized as a vulnerable group in theory, were excluded in practice in terms of participation and as priority beneficiaries requiring special attention. They did not receive the same attention in the delivery of humanitarian assistance as women (often interpreted as child-bearing age) and children. While various organization officers interviewed for the report on age-friendly community health services in Aceh, Indonesia, emphasized that older people were not actively excluded from their programmes, they also acknowledged that they were not directly targeted.<sup>19</sup>

*CAMBODIA : “Research based on the representative sample of the 2004 Survey of the Elderly concluded that the impact of the civil war in Cambodia on the surviving older adults was substantial. The affects of the war and its aftermath led to the further impoverishment of the country and were so widespread that few people were left unaffected. The research in Pailin affirmed this observation for elders on both sides of the conflict. For despite the different backgrounds among those surveyed, with some elders former Khmer Rouge cadre and other elders victims of the revolutionary regime, most of those interviewed suffered poor health and lived in conditions of poverty. The Pol Pot debacle and the prolonged years of conflict had brought impoverishment and tragedy to all. Still the respondents were survivors and through their remarkable resilience gave credence to the vision of the Madrid Assembly of the ‘enormous potential of ageing.” (Source: Growing Old in Former Khmer Rouge, Stronghold of Pailin, Analyzing Development Issues Trainees (Round 17) and Team, Nov 2006)*

Such direct and indirect discrimination and indifferent attitudes towards elders erodes their right to participation in the planning and implementation of all research, policy and programme initiatives that affect them. The general perception that views older people as victims, objects of pity or burdens, also obstructs their continuing right to pursue opportunities for the development of their potential, through education, skills training, employment opportunities and the chance to take part in community affairs. During the MIPAA review, this issue was reflected upon and

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<sup>19</sup> Source : Age-friendly community health services in Aceh, Indonesia (December 2006), HelpAge International

reports from Asia indicated that some inclusive approaches such as client satisfaction surveys and focus group discussions have been adopted to policy making, yet these need to be more comprehensive and effectively implemented.

*BANGLADESH: "Monica is a committed member of an Older Citizens Monitoring group. She values the existing state support for older people but believes the government could do more. 'I think older people issues are rarely discussed in our national political agenda. It is still a minor issue.' Monica is keen to avoid being a burden on her children. She says: 'The government can take initiatives by increasing the amount of Old Age Allowance and by creating job opportunities for the older people who are able to work. Older people themselves can also improve their lives by uniting and raising their demands to the government authorities.' This is why she advises older people to form older people's committees in every union of Bangladesh" (Source : Age Demands Action in Bangladesh, HelpAge International*

### **Ageing and Gender : Double jeopardy of age and gender based discrimination**

Demographic figures from Asia, like the rest of the world, hail the longevity of women as they are living longer and are outliving men by 2-8 years. Having more years added to their lives could result in opportunities to promote and enhance the quality of their lives, however, patriarchal social constructs and historical gender based discrimination, places them in the category of the most vulnerable. A comprehensive analysis of gender differences in economic support and well-being was carried out in eight countries in Southern and Eastern Asia: Bangladesh, Malaysia, Indonesia, Singapore, Thailand, Vietnam, Philippines, and Taiwan.<sup>20</sup> The study shows substantial variation across economic indicators (namely sources of income, receipt of financial and material support, income levels, ownership of assets) subjective well-being. The report also provides an important qualification to widely held views concerning the globally disadvantaged position of older women.

Further commenting upon the status of older women in Singapore, a paper on Women and Income Security in Asia by Susana Amargo Concorde of the TSAO Foundation, emphasizes that these women are enjoying a reasonable quality of life today, but they are potentially in a vulnerable position because of their total reliance on family for financial and other support. Because of low levels of education, poor labour participation in the past and the lack of CPF funds, older women today do not have their own source of income nor do they have any marketable skills to generate income. As Singapore's non-welfare policy emphasizes family care for older people, there is no additional safety net beyond family care (except for the Public Assistance Fund for those in extreme poverty). Older people with children are not eligible for most assistance and subsidy schemes. As long as the family continues to provide care and support, older women's well-being is relatively assured, but without this support, the well-being of these women when they reach old age is of great concern. Older women without family support would have no income or a low income and this could mean not getting adequate healthcare services.

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<sup>20</sup> Gender Differences in Economic Support and Well-Being of Older Asians, by Ofstedal, Mary Beth, Erin Reidy, and John E. Knodel, *Journal of Cross-Cultural Gerontology*, 19: 165-201. 2004

These concerns are substantiated in Bangladesh where “many older people spend their lives in poverty and ill health, which is a major risk for the elderly population. This is especially true for older women, who suffer from multiple disadvantages resulting from biases to gender, widowhood and old age. Women, particularly widows, who are without living sons or who live alone, are considered to be particularly at risk of economic destitution, social isolation, poor health and death<sup>21</sup>. The support system for older men and women differ. The older women's dependency on their families will be higher than that of older men. Marital status is an important determinant of where older persons reside, their support system, and their individual well-being. A Bangladeshi women often enjoys power and authority if she happens to be the head of the family. If this association is broken, her access to resources for care and sustenance is reduced, making her vulnerable. This risk increases for women who have no assets for survival, such as education, possessions or social status<sup>22</sup>. Women's vulnerability is compounded by failing health, disability and widowhood making elderly women the most defenceless in the Bangladesh context<sup>23</sup>.”<sup>24</sup>

As stated above, HIV/AIDS is a key concern in the regional development agenda. Notably, elder persons, particularly older women, remain neglected within the response. HIV and AIDS can prove devastating in undermining traditional support structures that sustain many families in Asia, reversing the expectation of support for older people later in life. With HIV and AIDS, older people, primarily women, are confronted with the task of caring for a sick adult child, coping with their eventual death, and possibly looking after a surviving grandchild. Interviews and focus group discussions with older women carers in three countries – Cambodia, Thailand and Vietnam - indicate that they assume multiple responsibilities in caring for people living with HIV and/or orphaned and vulnerable children. Caring for both affected and infected grandchildren requires them to take on important duties in areas such as health, nutrition, and education. The consequences of serving as the main carer in these circumstances are often severe, interconnected, and enduring. Older people's economic status can be weakened due to direct costs (medical, food, clothing, education) and indirect costs (loss of income support, lack of time to earn money), leading them to sell assets and borrow money. The ill health and/or death of a family member and ongoing financial concerns results in immense trauma and stress, and the physical and emotional strain of providing care can have major consequences for older people's health. Social interaction may decrease due to stigma and discrimination and the considerable amount of time spent caring accentuates feelings of isolation.<sup>25</sup>

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<sup>21</sup> Kabir et al., 2005; Abedin, 2003

<sup>22</sup> Sattar et al., 2003, Chang, 1992

<sup>23</sup> Sattar, 2003; Audinarayana and Kavitha, 2003, Chen and Dreze, 1995

<sup>24</sup> Source : Future Appeal of Geriatrics in Bangladesh, Md. Ismail Tareque, Dept. of Population Science and Human Resource Development, University of Rajshahi, Bangladesh

<sup>25</sup> Committed to caring: Older women and HIV and AIDS in Cambodia, Thailand and Vietnam, Global Coalition on Women and AIDS, HelpAge International

Despite the evident burdens and challenges of socio-cultural and economic factors in older women's lives, many are denied access to resources and opportunities and are forced to live with lifelong inequality and discrimination.

## **7. CONCLUSION AND RECOMMENDATIONS**

This examination of various cases of violations being faced by the elderly across Asia reveals the layered complexities of ageing and its intricate linkages with other human rights concerns. It also shows that the interconnectedness of rights of older persons is often overlooked by state actors. This emphasizes the need for an intense engagement with and holistic approach towards elderly issues. Even the legislative provisions made to protect the rights of older people are applied within a welfare-based framework in the majority of Asian countries. Insufficiency and ineffectiveness of institutional and non-institutional bodies also highlights the low priority awarded to the ageing population in the development agenda across the region. Further, there is a dearth of regional and national-level information and data on issues related to older persons, especially those in difficult circumstances. There is an imminent need to advance ageing issues on the public policy agenda across the region. Substantive, structural and cultural gaps are visible in the legal, policy provisions and service delivery systems and that demands immediate corrective measures to ensure the fulfilment of elderly rights.

In keeping with the various challenges and barriers faced by different stakeholders working on elderly issues, using a human rights framework to address the violations faced by the elderly has now become an imperative. A human rights framework will not only provide a powerful language for demanding state accountability towards the protection of older people's rights, but it would also broaden our understanding of the rights of older people to be more universal and interlinked with other human rights. In order to ensure an enabling environment for elders to claim and enjoy their entitlements, these should be promoted at different levels – from individual, domestic, regional to international. Some key recommendations in this direction are:

Rigorous evidence based advocacy by NGOs, groups, media etc. to place elderly issues at the centre of the human rights discourse. In order to ensure this, efforts should be made to capture patterns and intensity of violations of elderly rights through increased fact finding missions, case-based documentation and analysis.

Human rights groups need to engage more intensively with redressing elder rights violations.

Availability of disaggregated data, categorized on the basis of gender, geographical locale and economical situation, becomes pertinent. Ageing issues should be incorporated into regional and national research agendas.

Formulation of a larger constituency with increased understanding and sensitivity on elderly rights.

Further development of nuanced understanding on elderly issues with right based perspective amongst local NGOs, human rights groups, social workers, activists, volunteers, health/legal professionals, practitioners.

Advocate for increased sensitivity and accountability on the part of states to ensure the fulfilment of elderly rights. This should also include placing concerns of the aged in development policies, integrated into a human rights framework with priority being giving to resource allocation and distribution.

Alliance building amongst groups working at domestic, regional and international level to develop linkages for cross-learning as well as to strengthen efforts to ensure national and regional accountability.

