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Editorial

The need to strengthen the protection of the rights of older persons has gained momentum in recent years. At the international level, there are calls for the adoption of a United Nations (UN) convention on the rights of older persons. Accordingly, a UN Working Group on Older Persons was established in 2010 to review the existing international framework on the rights of older persons and to identify gaps and how best to address them, including the possibility of additional instruments and measures. In the same year, the UN Commission for Social Development called on states to adopt appropriate measures in order to promote and protect the rights of older persons and provide them with economic and social security and health care. There is also an increased demand for the needs of older persons to be considered in efforts towards achieving the Millennium Development Goals. A Working Group on the Rights of Older Persons and People with Disabilities in Africa was established in 2009 to look at, among other things, the drafting of a protocol on older persons in Africa.

In South Africa, the regulations to the Older Persons Act 13 of 2006 finally saw the light of day in 2010. The Department of Social Development has also called for concerted efforts to meet the needs of older persons and address the challenges they face.

On 20 February 2011, we celebrated the World Day of Social Justice, a day dedicated to strengthening efforts towards poverty eradication, promoting full employment and decent work, gender equality and access to social well-being and justice for all. But what does social justice mean for older persons? It should mean ensuring their financial security and seeing to it that their socio-economic needs are met, and that more and more of them are able to enjoy active, independent and healthy lives, among other things.

However, the socio-economic needs of older persons in South Africa are far from being met. These people face income poverty, food insecurity, social exclusion, discrimination and lack of access to basic services such as water and health care. The situation is worrying considering that South Africa's ageing population is increasing. In mid 2009, Statistics South Africa estimated South Africa's population aged 60 years or older at 3.7 million. The number rose to 3.9 million in 2010 and is projected to increase to 4.42 million (9.5% of the population) by 2015. This has implications for the planning of social and health care services in South Africa.

On 22 February, the Socio-Economic Rights Project of the Community Law Centre hosted a workshop on promoting the socio-economic rights of older persons in South Africa. The papers in this issue (with the exception of the two in the features section) are revised and, in some instances, shortened versions of presentations made at the workshop. These papers demonstrate that the government needs to strengthen its efforts towards meeting the needs of older persons.

In his 2011 Budget Speech, delivered on 23 February, the Minister of Finance, Pravin Gordhan, made a number of commitments towards improving the situation of older persons. One of these relates to the

right to social security and assistance. From April 2011, the monthly state old age grant will increase by R60 a month to R1 140, and by an additional R20 a month to R1 160 for pensioners over the age of 75. While this is laudable, considering accommodation costs, constantly rising food prices and the increasing involvement of older persons as caregivers, it is doubtful that it will meet their needs. Much still needs to be done.

We acknowledge and thank all contributors to this issue. We trust that readers will find it useful in the promotion of the socio-economic rights of older persons.

Lilian Chenwi, editor-in-chief

Realising the rights of older persons in South Africa

Sindiswa Mathiso

The Constitution of South Africa (the Constitution) provides for the justiciability of socio-economic rights. Section 27(1) provides that everyone has a right to have access to health care services, sufficient food and water, and social security, including, if they are unable to support themselves and their dependants, appropriate social assistance. Similarly, section 26(1) provides that everyone has the right to have access to adequate housing. Section 27(2) provides that the state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of these rights. These rights are applicable to everyone without discrimination.

The scope of this paper, however, is confined to the realisation of the socio-economic rights of older persons. Across the world, the population of those aged 60 and above is increasing rapidly. Developing countries, including South Africa, are expected to experience the largest of these increases (Alberts, 2005: 35). The growing numbers will have major policy and budgetary implications for the government. In Africa, South Africa has one of the most rapidly ageing populations. Despite the demographic impact of the AIDS pandemic in the country, the number of older persons will continue to grow over the next two decades. This is because most of those succumbing to AIDS-related diseases are young or middle-aged.

It is argued that despite the protective legislation that has been adopted, the rights of older persons are not accorded the seriousness they deserve. In fact, the absence of a specific international convention for older persons indicates their relegated status. Furthermore, in the current context of the HIV and AIDS pandemic and the extreme levels of poverty in South Africa, older persons are forced to carry the burden of being caregivers and chief breadwinners. This is a social reality that is often ignored, and, given their relegated status, the rights of older persons

are often violated by those who are meant to take care of them.

This paper therefore argues that the rights of older persons need to be made stronger in law and in practice, so that older persons can be revered and respected as elders in society. For this to take place, and for the rights of older persons to be properly protected and fulfilled, a cultural and social change is required. This paper also discusses a few pertinent issues relating to older persons in South Africa, focusing on poverty, the impact of HIV and AIDS, and the housing and health care rights of older persons. It concludes with the recommendation that there should be an international convention for older persons, and also that the Presidency of South Africa should include older persons as one of the vulnerable groups in its new ministry.

Legal and policy framework on older persons

In April 2002, the Madrid International Plan of Action on Ageing (MIPAA) was adopted and signed, and South Africa was one of the countries that committed themselves to its implementation. The focus of MIPAA is on poverty, HIV and AIDS, retirement, social and economic exclusion, and the abuse of older persons. Despite South Africa having signed it, not much is known about MIPAA, since it does not have the binding force of an international convention. South Africa does have a draft South African plan of action, but the pace of its finalisation is quite slow. As laudable as this may seem, the fact that the rights of older persons are not specifically covered in a specific international convention may, to some extent, explain why many important issues in respect of older persons are not prioritised in development agendas. An illustration of this is perhaps the newly created Ministry for Women, Children and People with Disabilities. Notwithstanding the fact that these vulnerable groups are important, it is rather telling that older persons were left out despite the cry from that sector.

In March 2006, the South African Parliament passed the Older Persons Act 13 of 2006 (OPA), which provided a comprehensive framework to advance the rights of older

● ● The purpose of the Older Persons Act is to deal effectively with the plight of older persons and to improve their lives. ● ●

persons, created mechanisms of protection, put in place structures of support within the community, and generally ensured that the welfare, rights and interests of older persons were advanced. The purpose of the Act is to deal effectively with the plight of older persons and to improve their lives. It is developmental in approach because its aim is to empower older people by initiating programmes and services for them, by protecting them, and specifically by prohibiting their abuse. However, budgetary constraints have limited the full implementation of the Act.

Financial burden on older persons

The levels of poverty and inequality in South Africa have increased and many still live in extreme poverty. Chronically poor households tend to have more members, are more likely to be female-headed, and on average have older household heads. Older persons are among the chronically poor and have to fend for themselves and their dependants as well. Although a large proportion of social assistance funding in South Africa goes to the older person's grant, this does little to mitigate the plight of chronically poor households that are effectively headed by elderly people. The social assistance rendered to older persons is clearly not intended as the main 'salary' for the household, but this is often the reality and the burden that older persons have to bear. Anecdotal evidence further indicates that many older persons who find themselves in this desperate situation face abuse by family members who appropriate their money. In households where they are not abused, many older persons have to cope with the stress of deciding how to apportion their meagre 'earnings' in order to ensure the survival of the household.

Therefore, even though the older person's grant accounts for the largest share – currently approximately 38% – of the social security budget, the amount is certainly not enough to address chronic poverty. It is incumbent upon the state to acknowledge the extreme financial burden that many older persons experience and to prioritise older persons, as a vulnerable group, in its poverty reduction strategies.

The impact of HIV and AIDS on older persons

In respect of Goal 6 of the Millennium Development Goals (MDGs), approximately 3% of South African children 18

years of age and younger are HIV-positive (Human Sciences Research Council, cited in PlusNews, 7 February 2011). In addition, child-headed households are a new and growing phenomenon, and AIDS-related deaths are the primary cause of the increase in the already large number of orphans. AIDS results in older persons having to become the primary caregivers to their adult children, and then having to care for their orphaned grandchildren. Although there is very little statistical information on the exact number of orphans in South Africa, there are estimated to be approximately 700 000 (Statistics South Africa, 2010).

This burden on older persons has received little attention in discussions on policy and programme development to support AIDS orphans. What is equally disconcerting is that the crucial role that older people play in caring for AIDS orphans is seldom recognised. In most cases, the care they provide is without support, almost as if the responsibility had been passed on to them by the state. It is obvious that the majority of older persons know little or nothing about HIV and AIDS, and that the resources to provide proper care are severely lacking, and this places them at risk of infection. Many therefore feel isolated and helpless, and the care that they are forced to provide often has a traumatic effect on them, psychologically and emotionally.

The state of residential care facilities

Residential care facilities for older persons are in dire need of attention, because older persons are clearly not enjoying their right to adequate housing. The Department of Social Development recently conducted an audit of residential facilities subsidised by the state in order to identify the services provided and assess their quality, while also identifying the management systems used to run these facilities (Department of Social Development, 2010).

The findings of the study demonstrate that the majority of residential facilities are in no state to comply with the norms and standards in the OPA and would require a huge financial investment to do so. This is yet another indication of the gaps that remain in the implementation of the constitutional and legislative obligations regarding older persons.

Bureaucratic and technical processes have also hindered the smooth operation of old age homes, and many organisations registered under the Nonprofit Organisations Act 71 of 1997 (NPO Act) have complained of inadequate funding by the state. There have also been complaints of failure by the government to pay the subsidies already allocated. In a recent example, the Free State High Court instructed the Free State Provincial Government in 2010 to come up with a better policy in respect of NPOs in that province (National Association of Welfare Organisations and Non-Governmental Organisations and Others v MEC of Social Development, Free State and Others 2010 ZAFSHC 73).

Besides issues of funding, there is very poor regulation of many care facilities, which exacerbates the challenges relating to maintenance and abuse by staff members.

Over the years, the South African Human Rights Commission (SAHRC) has investigated quite a few facilities in which abuse has occurred, and found that unless proper monitoring mechanisms are in place, the ineffective and inefficient running of facilities goes unnoticed. It was also apparent during site inspections by the SAHRC that the duty of care by personnel occurred outside a human rights framework and that older persons were unaware of their rights. Therefore much needs to be done to inculcate a human rights culture in many of these facilities.

Realising the health care rights of older persons

Access to health services for the poor, especially in rural areas, is severely constrained by expensive, inadequate or nonexistent transport, by serious shortages of emergency transport, and by long waiting times at clinics and other health care facilities. The findings in the SAHRC's 7th Economic and Social Rights Report 2006–2009 (2010) highlighted the insufficient access to health care for vulnerable groups such as women, sex workers, prisoners and older persons. Older persons often complain about a whole range of health issues, from lack of respect to shortages of medication and long waiting times.

In respect of frail care facilities, staff lack capacity and there is a shortage of the equipment required for rendering proper assistance to the frail. Many doctors are ill-equipped to deal with the special requirements of geriatric patients. To make matters worse, in 2009 the South African Nursing Council decided to remove gerontology from its nursing curriculum. This is yet another indication that older persons are not prioritised in South Africa's development agenda; yet the evidence, including the growth of the elderly population, suggests that responsibility needs to be taken for ensuring that the country has more geriatric nurses and doctors.

Conclusion

One of the key findings of the SAHRC's 7th Economic and Social Rights Report (2010: ix) was that

while there has been significant policy and legislation created which could enable the state to progressively realize economic and social rights, there are many policy failures, as well as gaps and weaknesses when translating policy into action. Furthermore, there is still no clear understanding throughout the system of government regarding the content of its constitutional obligation of progressive realization, and there is little recognition of a rights-based approach to socio-economic rights in policy planning and implementation.

This finding is particularly applicable to the rights of older persons, and the main obstacle to the implementation of these rights is the insufficient budget allocated to programmes and projects for older persons. Notwithstanding South Africa's progressive Constitution and comprehensive legal framework to protect older persons' rights, their needs are invariably accorded a lower priority than those of children and the youth in resource allocation.

The full realisation of socio-economic rights will require multi-departmental efforts. In addition, there is a need for a specific international convention for older persons. The absence of such a convention contributes greatly to the perceived relegated status of older persons. If the newly created Ministry for Women, Children and People with Disabilities could incorporate older persons, it would go a long way towards changing that perception.

Sindiswa Mathiso is the national coordinator: older persons at the South African Human Rights Commission.

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The protection of the socio-economic rights of older women

An appraisal of General Recommendation 27 of the CEDAW Committee

Elvis Fokala Mukumu

Over the years, human rights bodies such as the United Nations (UN) and the African Union (AU) have placed extensive emphasis on the need to protect socio-economic rights, especially of vulnerable groups, including children and women. Consequently, the protection of women's rights, for example, has been the highlight of several human rights debates and gender-driven conferences and seminars. Surprisingly, these debates focusing on promoting and protecting women's rights have paid little attention to the protection of the socio-economic rights of older women. Arguably, this oversight has greatly hindered the expansion and understanding of the rights of older women in general and their socio-economic rights in particular.

It is traditional to think of the protection of older women's socio-economic rights as protection for women with 'special needs', but, with the ageing population as a whole growing rapidly, older women's socio-economic rights will surely become a major component of mainstream human rights protection. Besides, the emerging quest for a more inclusive approach to the protection of older persons' rights in general and older women's rights in particular has the potential to drastically transform the way everyone's lifestyle choices are configured and constrained.

In 2010, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) adopted General Recommendation 27 (GR 27) on older women and protection of their human rights (UN doc. CEDAW/C/2010/47/GC.1). Its adoption could be seen as a flicker of hope for the adoption of a UN convention or a mechanism that would protect the socio-economic rights of older persons, including women, as its content adds value and encourages global debate on the protection of the rights of older women.

The scope of GR 27

From a broader perspective, GR 27 elucidates the situation of older women and the protection of their human rights. While discrimination against older women is a recurring theme in GR 27, it should be noted that discrimination

against women in general and older women in particular is a cross-cutting practice that affects every aspect of their rights and hinders their full enjoyment of socio-economic rights in particular. Specifically, GR 27 highlights maltreatment, lack of access to services, and unequal resource allocation and distribution as the main discriminatory practices older women face.

The rights of older women in GR 27

While every aspect of older women's human rights in GR 27 is crucial, it is beyond the scope of this paper to consider them all in detail. Instead, I evaluate certain selected socio-economic rights that are fundamental to the development and protection of older women.

Equality between older men and older women

As stated above, discrimination is a theme that runs through GR 27 and is arguably the catalyst of several socio-economic rights abuses that older women face. According to GR 27, both older men and older women suffer from discrimination based on age (para 11). But the CEDAW Committee maintains that older women experience discrimination differently (para 11), particularly because the gender inequalities girl children and women face throughout their lives, which are often based on deep-rooted cultural and social norms, are exacerbated in old age (para 11).

The CEDAW Committee observes that the degree of discrimination older women face varies according to the socio-economic conditions and socio-cultural backgrounds in which equal opportunities and choices relating to education, work and health have been improved or limited (para 12). This is critical as it draws a line and points to an understanding of the right to equality of older women as completely different from that of other vulnerable groups such as rural women.

The full development and advancement of women can only be achieved if a life cycle approach is adopted. This implies recognising and addressing the different stages of women's lives – that is, childhood, adolescence, adulthood and old age – and their impact on the enjoyment of human rights by older women (para 15). States parties are called on to ensure that all legal provisions directed at the full development and advancement of women do not discriminate against older women (para 30). Also, states

parties are required to ensure that 'the principle of gender equality applies throughout the life cycle in law and in its practical realization' (para 31).

The life cycle approach may be the required approach that not only ensures continuity in the protection of girl children, women and older women against discrimination, but can completely or significantly guarantee the protection of the socio-economic rights of older women. Besides, it is imperative to bear in mind that today's younger women are tomorrow's older women. Thus, protecting younger women's right to non-discrimination might be an assurance of a better life for older women who, in many cases, are marginalised and deprived of participation on equal terms in the social, economic and cultural activities of their society (Begum, 2009: 5).

The right to education

Arguably, the right to education can be seen as the key that opens and facilitates the full enjoyment of other human rights. However, many poor older women, especially those with disabilities and those living in rural areas, have been denied their right to education and have received little or no formal or informal education (para 19). This is evident in continents such as Africa and Asia, where, in the past – and still, in some areas – the barring of younger women from the enjoyment of their right to education has exacerbated illiteracy and innumeracy among older women, severely restricting their employment and use of a range of social services such as food banks (Begum, 2009: 13–15).

Thus, states parties are called upon in GR 27 to ensure that equal opportunities in the field of education for women of all ages are respected and protected. Most especially, states are required to guarantee older women's access to adult education and lifelong learning opportunities as well as to the educational information they need for their well-being and that of their families (para 40).

The right to physical and mental health

Biologically, a woman's anatomy is very delicate and has different health priorities from those of a man. As a woman gets older and experiences the effects of body-related conditions such as reaching post-reproductive age, her anatomy will deteriorate if she cannot access health services due to her age or health, or is prohibited from doing so. However, even where an older woman's health is ostensibly cared for, GR 27 affirms that in most cases her right to self-determination and consent is almost non-existent (para 21). This is aggravated by the fact that information central to older women's health is rarely provided in a form that is acceptable, accessible and appropriate to them (para 21).

Consequently, GR 27 calls on states parties to

adopt a comprehensive health care policy for the protection of the health needs of older women in keeping with General Recommendation 24 on women and health. ... This should also include interventions promoting behavioural and lifestyle changes to delay onset of health problems, such as healthy nutritional practices and active

● ● The right to work is arguably the only socio-economic right on which an age limitation has been imposed in several countries. ● ●

living, and affordable access to healthcare services, including screening and treatment for diseases, in particular those most prevalent among older women (para 45).

Although GR 27 fails to highlight the need for existing geriatric health-related literature and research to be simplified and made accessible and acceptable to older women, it is imperative for states parties and non-governmental organisations (NGOs) to ensure that this is done, as it may go a long way towards educating older women on their health and possibly improving how they take care of themselves or respond to treatment.

Rights relating to work and pension

The right to work is arguably the only socio-economic right on which an age limitation has been imposed in several countries. In most cases, age limitations relating to work discriminate against women. According to GR 27, gender-based discrimination in employment throughout a woman's life has a 'cumulative impact in old age'. For instance, it condemns older women to disproportionately lower access to pension benefits, or none (para 20).

As a result, the CEDAW Committee explicitly recommends that 'retirement ages for women should be optional to protect older women's right to continue working if they choose to and to accumulate increased pension benefits' (para 20). In making this recommendation, the CEDAW Committee has drawn on the provisions of General Comment (GC) 19, paragraph 4(b), of the Committee on Economic, Social and Cultural Rights (UN doc. E/C.12/GC/19) and article 28(2)(b) of the Convention on the Rights of Person with Disabilities of 2006. Also, the CEDAW Committee calls on states parties to facilitate the participation of older women in paid work without any discrimination based on age and sex. States parties are also required to pay particular attention to overcoming problems that older women face in their working life and to ensure that they are not forced into early retirement or similar solutions (para 41).

States parties are further required to provide 'adequate non-contributory pensions ... to all women who have no other pension or insufficient income security' (para 44). While this is laudable, its recommendation in paragraph 20 of GR 27, stated above, is vague and does not address the root causes that expose older women to such low or no pension benefits. It should be noted that retirement is generally considered a necessary tool to create employment opportunities for new arrivals on the labour market and to revive enterprises (Taqi, 2002: 118). Possibly, because

most states parties have adopted contributory pension schemes, states parties and other stakeholders should pay particular attention to rectifying concerns such as unemployment among women and gender pay gaps. Besides, states parties are supposed to provide non-contributory old age benefits to assist, at the very least, older women who, when reaching retirement age, are not entitled to an old age insurance-based pension, and those burdened with caregiving responsibilities for other family members, for instance their grandchildren (Sepúlveda, 2010: paras 21 and 50). These might improve employment among women and their pension benefits in old age.

Older women's right to housing

GR 27 states that older women in most developing countries, especially those in rural areas and urban slums, are often deprived of their right to housing (para 12). The CEDAW Committee notes that in instances where housing rights are ensured, inadequate attention is often given to the requirements necessary for adequate housing, which include 'accessible housing arrangements and mobility aids' (para 23).

States should therefore take special care to ensure that older women have access to adequate housing that meets their specific requirements, and should remove architectural and other barriers obstructing older women's mobility and leading to their forced confinement. Also, states parties should ensure that laws and practices affecting older women's right to housing, land and property are abolished and protect them against forced evictions and homelessness (para 48).

Older women's right to clean and safe water

The denial of the right of many poor and rural older women to clean and safe water is part of their everyday lives. In fact, in many rural communities in developing countries, the water taps provided are very cumbersome and require considerable physical strength to operate, and at times are installed in areas that cannot be reached by an older woman.

Therefore states parties should ensure that older women are included and represented in rural and urban development planning processes. Also, states parties should provide affordable water, electricity and other utilities to older women, especially those who are poor and live in rural areas or urban slums. Besides, 'policies to increase access to safe

water and adequate sanitation should ensure that related technologies are designed so that they are accessible and do not require undue physical strength' (para 49).

Conclusion

GR 27 can be seen as a springboard for protecting the socio-economic rights of older women, particularly those highlighted above. It is not without defects, though. For instance, while its extensive elaboration on older women's right to non-discrimination is commendable, this could be seen as detracting from their other rights, for instance to informed consent and self-determination, which are catalysts to the full enjoyment of their socio-economic rights such as those to health and housing.

At present there is no UN treaty that specifically protects older women's socio-economic rights. Nonetheless, states parties to other UN instruments, including the CEDAW and the International Covenant on Economic, Social and Cultural Rights of 1966, stand a better chance of ensuring that the socio-economic rights of their older women are protected, respected, promoted and fulfilled. This is because these instruments already contain vital socio-economic rights that are relevant to older women.

Notwithstanding the legislative vacuum, it is worth noting that from a general perspective, GR 27, with its emphasis on certain cross-cutting rights such as health, education, work and pensions, is a step in the right direction. Also, the spirit in which the CEDAW Committee links the need for the protection of older women's human rights in general and their socio-economic rights in particular to the effects of climate change due to physical and biological differences is innovative and takes the debate further (para 25).

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The CEDAW Committee's General Recommendation 27 can be accessed at <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC1.pdf>.

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The relevance of the International Covenant on Economic, Social and Cultural Rights for older persons in South Africa

Lilian Chenwi

The Universal Declaration of Human Rights of 1948 (UDHR) recognises that '[a]ll human beings are born free and equal in dignity and rights' (article 1). This equality in dignity and rights applies irrespective of age. The UDHR further states that '[a]ll are equal before the law and are entitled without any discrimination to equal protection of the law' (article 7).

Despite this recognition of equality in dignity and rights for all, international human rights law does not explicitly recognise the rights of older persons. The exception is the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990, which lists 'age' as one of the prohibited grounds of discrimination (article 1(1)). This lack of explicit recognition has resulted in a call for the United Nations (UN) to create a new convention on the rights of older persons (INPEA et al, 2010).

Various international human rights law treaties do, however, provide for rights that apply to all, including older persons. This paper focuses on the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966 in relation to the socio-economic rights of older persons because it is the main treaty at the UN level that focuses solely on economic, social and cultural rights.

The ICESCR guarantees a range of socio-economic rights such as social security, work, education and an adequate standard of living including food, clothing and housing, as well as cultural rights. South Africa signed the ICESCR more than 16 years ago, but has yet to ratify it. By signing the ICESCR, South Africa has undertaken to 'refrain from acts that would defeat the object and purpose' of the treaty in the period between signature and ratification (see article 18 of the Vienna Convention on the Law of Treaties of 1969).

An Optional Protocol to the ICESCR, adopted in 2008, provides a platform for people to bring complaints to the UN Committee on Economic, Social and Cultural Rights (CESCR) when they have not been able to access a remedy at the national level. The CESCR oversees the implementation of the ICESCR. South Africa has yet to sign or ratify this Protocol.

This paper highlights key provisions and aspects of the Covenant and its subsequent interpretation that are relevant in advancing the socio-economic rights of older persons at the national level. Though South Africa has not

yet ratified it, the ICESCR serves as persuasive authority and can be used as a guide in interpreting the rights in the Constitution. This has been emphasised by the South African Constitutional Court (*Government of the Republic of South Africa and Others v Grootboom and Others* 2001 (1) SA 46 (CC), para 26) and in the Constitution itself (sections 39(1) and 233).

Recognition of older persons in the ICESCR

Like other international human rights treaties, the ICESCR does not explicitly refer to the rights of older persons. However, article 9 of the Covenant, dealing with the right of everyone to social security, including social insurance, implicitly recognises the right to old age benefit.

Notwithstanding the lack of explicit recognition, the CESCR has made a number of important statements on the socio-economic rights of older persons, including clarifying the socio-economic rights obligations of states in relation to such persons. These statements are contained in various general comments (GC) of the Committee that interpret the rights in the ICESCR and elaborate on the obligations imposed on states when they ratify the Covenant. The Committee has dedicated one of these general comments solely to the socio-economic rights of older persons (GC 6 on the economic, social and cultural rights of older persons, UN doc. E/1996/22).

The following paragraphs outline the obligations of states in relation to the rights of older persons to adequate housing, health care, adequate food and social security as contained in the various general comments of the CESCR. Since these general comments go further than constitutional provisions in defining the scope of these rights and the duties on states, they could be very useful in advancing the socio-economic rights of older persons in South Africa. South African courts have, in fact, sought guidance from some of the CESCR's general comments when dealing with cases relating to, for example, housing and access to water.

Rights and state obligations in relation to older persons

The ICESCR lays down the duties of states parties in relation to the rights that are contained in it. These obligations are reinforced by various international standards on ageing or older persons such as the UN Principles for Older Persons, adopted in 1991 (UN doc. A/RES/46/91). These Principles aim to ensure that priority is given to the situation of older persons.

● States should take special measures to ensure that the housing rights of older persons are protected. ●●

Importantly, states parties are required to 'pay particular attention to promoting and protecting the economic, social and cultural rights of older persons' (GC 6, para 12). In addition, they should regularly monitor the enjoyment of rights by older persons and adopt measures to ensure that these rights are realised without discrimination (GC 6, para 18). The Committee has drawn attention to the fact that 'age' is a prohibited ground of discrimination in various contexts, and that states parties have to address discrimination against unemployed older persons in relation to finding work and accessing professional training, and against older persons living in poverty with unequal access to old age pensions (GC 20 on non-discrimination in economic, social and cultural rights, UN doc. E/C.12/GC/20, para 29).

Related to non-discrimination is the provision on equal rights of women and men, which requires that states parties pay particular attention to older women, who are often in a critical situation because they spend most of their lives caring for their families (see GC 6, paras 20 and 21).

The following four subsections of this paper consider the obligations of states parties in relation to four specific rights. Before that, however, I briefly highlight some obligations of states parties in relation to other rights in the ICESCR, as elaborated on by the CESCR with reference to older persons.

In relation to 'the right to work', the Committee finds it desirable for older workers to be employed in circumstances in which their experience and know-how can be beneficial, and for states to ensure that retirement preparation programmes are in place and effectively implemented (GC 6, paras 23 and 24; see also GC 18 on the right to work, UN doc. E/C.12/GC.18, para 16).

The Committee further emphasises that enjoyment of 'the right to education' is not limited by age or gender, and thus extends to older persons (GC 13 on the right to education, UN doc. E/C.12/1999/10). States parties are therefore required to ensure that older persons have access to suitable education programmes and training and remain integrated into society (GC 6, paras 37 and 39). The Committee also recognises older persons as one of the groups that face difficulties with physical 'access to water', thus necessitating steps by states parties to provide them with safe and sufficient water (GC 15 on the right to water, UN doc. E/C.12/2002/11, para 16).

Other rights dealt with by the Committee in GC 6, particularly the rights to adequate housing, health care, food and social security, are considered in more detail below.

The right to adequate housing

The CESCR recognises older persons as one of the most vulnerable groups that suffer disproportionately from the practice of forced evictions (GC 7 on the right to adequate housing in the context of forced evictions, UN doc. E/1998/22, annex IV, para 10). This is in line with various international documents and standards on housing that recognise older persons as falling among vulnerable and disadvantaged groups.

States should therefore take special measures to ensure that the housing rights of older persons are protected. Housing for older persons, as explained by the Committee, should not be seen as mere shelter, as the psychological and social significance of housing needs to be taken into account too. Accordingly, states parties have a duty to ensure that the national policies they adopt assist older persons to continue to live in their own homes for as long as possible. This can be done through, for instance, the development and improvement of homes and by adapting them to the ability of older persons to gain access to and use them (GC 6, para 33).

The right to health care

The ICESCR refers to the 'right to the highest attainable standard of health', which takes into account both the individual's biological and sociological condition and state resources (see GC 14 on the right to the highest attainable standard of health, UN doc. E/C.12/2000/4, para 9).

This right goes beyond the right to be healthy or to timely and appropriate health care. The CESCR has explained that the right also extends to

the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health. A further important aspect is the participation of the population in all health-related decision-making at the community, national and international levels (GC 14, para 11).

The Committee has also identified essential elements of the right, which include availability, accessibility (encompassing non-discrimination and physical and economic accessibility), acceptability and quality. In relation to physical accessibility, states are required to ensure that health facilities, goods and services are within safe physical reach for all sections of the population, especially older persons (GC 14, para 12). The Committee further emphasises the need for states parties to adopt an integrated approach that combines elements of preventive, curative and rehabilitative health treatment (GC 14, para 25).

The right to adequate food

The CESCR has emphasised that the right to adequate food should not be interpreted in a narrow or restrictive sense that limits it to a minimum package of proteins, calories and other specific nutrients. Physical and economic access to adequate food at all times, or to means

for its procurement, is vital for one to enjoy the right to adequate food (GCt 12 on the right to adequate food, UN doc. E/C.12/1999/5, para 6).

In terms of physical access, the obligation of states in relation to older persons includes ensuring that adequate food is accessible to them (GC 12, paras 7 and 13). This would ensure food security for older persons.

The right to social security

The realisation of the right to social security is crucial to ensuring that people live a dignified life. Social security benefits include contributory and non-contributory schemes, as well as other forms of benefit. The UN Independent Expert on the question of human rights and extreme poverty has identified, in the context of social protection for older persons, a number of factors that are necessary for a social pension scheme to comply with human rights law.

These include recognising the right to social security, including the right to non-contributory pensions, and ensuring the following:

- equitable access to social security and paying special attention to vulnerable and disadvantaged groups;
- physical and cultural accessibility;
- transparency and access to information;
- accountability;
- wide and informed participation;
- adequacy of benefits;
- access to health care; and
- gender equality (Sepúlveda, 2010: paras 51–97).

Old age provision is recognised as one of the principal branches of social security, and older persons are one of the groups that traditionally face difficulties in enjoying their right to social security. Accordingly, states parties are required to provide special facilities for older persons and ensure that they are covered by contributory and non-contributory schemes. States are under a duty to provide non-contributory old age benefits and other assistance to older persons that have not completed a qualifying period of contribution by the time they reach the age prescribed in national legislation and do not have a social security benefit or assistance, with no other source of income (GC 6, para 30; and GC 19 on the right to social security, UN doc. E/C.12/GC/19, para 15). Upon the death of an older person who was a breadwinner, states must make provision for benefits to the survivors and orphans (GC 6, para 29; and GC 19, para 21).

Assessing compliance

With reference to national mechanisms for the enforcement of rights, the ICESCR provides additional enforcement mechanisms. Currently, the CESCR assesses states parties' compliance with their obligations through the state reporting procedure. States parties are required to submit regular reports on the measures taken and the progress made in achieving observance of the rights in the ICESCR (article 16).

In reviewing state reports, the CESCR has devoted

some effort to assessing whether states parties are paying particular attention to older persons. In concluding observations, the CESCR has recommended that states parties take specific measures to ensure that older persons enjoy their socio-economic rights. For example, the CESCR expressed concern over the level of social security available to older persons in the United Kingdom and Northern Ireland, which it found to be insufficient to enable them enjoy their rights. It then recommended that the existing social security system be reviewed so as to address the inadequacies (see CESCR, Report on the Tenth and Eleventh Sessions, UN doc. E/1995/22, paras 294 and 303). In relation to the right to health care, the CESCR has gone as far as looking at whether specialised services are available for older persons. In relation to Luxembourg, for example, the CESCR expressed concern over the lack of specialised geriatric doctors and facilities for older persons (see CESCR, Report on the Sixteenth and Seventeenth Sessions, UN doc. E/1998/22, para 397).

The CESCR further expressed concerns over issues such as the extent of poverty among older persons and underdeveloped home care in the case of Serbia and Montenegro. It then required the state party to take measures to reduce poverty among older persons, prioritise and allocate resources for home care for older persons, as opposed to institutional care, and also to strengthen non-profit organisations that provide home care and other services (see UN doc. E/2006/22, paras 288 and 315). And in developing home care and other personal and social services for older persons, states parties have to take into account the combined health and social care needs of older persons. This was recommended by the CESCR when assessing the state report of Italy.

The CESCR's concluding observations thus provide more guidance to states on the extent of their socio-economic rights obligations towards older persons. It should be noted that once the Optional Protocol to the ICESCR of 2008 comes into force, the CESCR will also be able to use the complaints and inquiry procedures to enforce the rights and obligations in the ICESCR.

Conclusion

Because South Africa's population is ageing rapidly, and the majority of the older population in the country face income poverty, the government needs to ensure the implementation of existing policies aimed at protecting older persons and also to assess the effectiveness of these measures regularly.

The ICESCR, with its particular attention to older persons, could serve as a useful framework within which to evaluate the socio-economic rights of older persons, guaranteed in the Constitution. The CESCR, as seen above, has elaborated on the rights in the Covenant in the context of older persons and provided more clarity with regard to the relevant obligations of states. The ICESCR could thus strengthen the existing national policies on older persons. The government has, in fact, acknowledged the importance of international human rights treaties in strengthening do-

mestic mechanisms promoting rights (Parliamentary Monitoring Group, 2005). Furthermore, the ICESCR is relevant because it provides that where a state party does not have the resources to realise the rights contained in it, the state can request international cooperation and assistance in meeting its obligations. Ratification of the ICESCR would thus be beneficial to the realisation of the socio-economic rights of older persons as well as others in society.

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The general comments of the CESCR can be accessed at <http://www2.ohchr.org/english/bodies/cescr/comments.htm>.

Excerpts from the concluding observations of the CESCR as well as other treaty bodies in relation to older persons can be accessed at <http://www.bayefsky.com/bytheme.php/id/930>.

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Including older persons in efforts to achieve the Millennium Development Goals

Watson Hamunakwadi

The Millennium Development Goals (MDGs) were signed by 189 United Nations member states in 2000, following the Millennium Declaration. These fundamental development goals were meant to set the framework for achieving global development targets by 2015. The framework proclaimed global agreement on key issues facing the world and set a timeline to achieve them with known indicators to measure progress from country to country. The goals are: to eradicate extreme poverty and hunger; to achieve universal primary education; to promote gender equality and empower women; to reduce child mortality; to improve maternal health; to combat HIV/AIDS, malaria and other diseases; to ensure environmental sustainability; and to develop a global partnership for development.

While explicitly recognising vulnerable groups such as women and children, the MDGs make no direct reference to the plight of older persons. There are no indicators designed to determine progressive policy or programmes for older persons specifically. Yet many continue to live in poverty. For example, the fact that 38% of social grant payments in South Africa go to pensioners (Gordhan, 2011) implies that many of them lack income security. Governments are therefore called upon to 'institute the financial, legal and social protections that will lift millions of older persons out of poverty and ensure their rights to dignified, productive and healthy lives' by adopting measures that include 'granting universal access to social services; increasing the number and worth of pension plans; and creating laws and policies that prevent age and gender discrimination in the workplace' (United Nations, 2010).

South Africa has a growing elderly population. Historically, income inequality and lack of access to employment during apartheid left the majority of the population with no retirement plans, and thus, as they age, disempowered

and dependent on their offspring or the government for their livelihood. In a country that has seen substantial rural-to-urban migration, high HIV and AIDS prevalence and geographically disproportionate economic growth, older persons have taken on more socio-economic responsibilities: they have become breadwinners, foster parents for their grandchildren and community care providers.

With regard to achieving the MDGs, the policies put in place by the South African government to date, such as the Accelerated and Shared Growth Initiative for South Africa (ASGISA), the Expanded Public Works Programme (EPWP), social assistance programmes and HIV programmes, have been insufficient and minimally progressive. Unemployment, low education standards in conjunction with high enrolments at schools, growing inequality and rising maternal mortality are indicators of this.

Achieving the MDGs depends partly on a renewed focus on the contribution made by older persons. Addressing their living conditions, including the challenges they face in accessing socio-economic goods and services, is important for the effective reduction of poverty and the acceleration of progress towards the MDGs. For primary education to be effective, older persons who take care of significant numbers of learners must be empowered to meaningfully develop children after school as part of a holistic educational approach. The state of the welfare system has to be improved to allow older persons who are foster parents to access critical child support grants that will enable them to care for their dependents effectively. The social assistance and welfare process must address the real challenges that confront older persons who are responsible for these chil-

dren, such as procuring identity documents for their foster children and improving access to welfare assistance.

The MDGs do not provide a mechanism for accountability in-state. There is no defined framework for implementing MDGs in national policy, but there is extensive reference in many policies. The MDGs are infused in many aspects of policy that should cumulatively ensure achievement by 2015. Consequently, for older persons to make meaningful progress in addressing their specific poverty issues, they should be considered in all efforts towards meeting the MDGs.

The reporting and analysis for the MDGs are at a national aggregate level that implicitly encompasses older persons, but cannot reveal the structural challenges within this population group. Disaggregated data for the MDG reports would assist in highlighting the situation of older persons and inform planning. Also, the ratification of the International Covenant on Economic, Social and Cultural Rights of 1966 by South Africa would provide a better accountability mechanism for the MDGs and, largely, the socio-economic rights of older persons. Lastly, new social services legislation, encompassing the function and form of the social welfare and development sector, would ensure progressive social welfare systems that improve the lives of vulnerable groups, including older persons.

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The Older Persons Act

Reflections on the process

Judith Cohen

The Older Persons Act 13 of 2006 (OPA) provides a solid framework for the promotion and protection of many socio-economic rights of older persons in South Africa, though not all such rights. It is therefore instructive to reflect on the process that led to the creation of this piece of legislation.

The Older Persons Bill (the Bill) took many years to draft. The South African Human Rights Commission (SAHRC), recognising the need to encourage the older persons sector to participate in the process, embarked on a countrywide process, gathering the views of more than 300 stakeholders. The SAHRC also hosted a number of workshops and brainstorming sessions looking at specific clauses in the Bill. Public hearings were held on 30 and 31 August 2005 involving a number of organisations and institutions, namely the Cape Jewish Seniors Association, Ikamva Labantu, the Commission on Gender Equality (CGE), the Black Sash, Highlands House, the South African Council of Churches, Alzheimer's South Africa (Western Cape branch), Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN), the Luipaardsvlei Tehuis vir Bejaardes, the Southern African Catholic Bishops' Conference, Grandmothers Against Poverty and AIDS (GAPA), the Western Cape Department of Health, and the Leprosy Mission of South Africa. This process led to a number of significant changes being made to the Bill.

It was evident that the members of the parliamentary Portfolio Committee on Social Development were listening. Proof of this is, for example, the inclusion in the OPA of programmes concerning HIV and AIDS and the elderly. On the second day of the hearings, RAPCAN spoke about the burden of child care that the impact of HIV and AIDS imposes on the elderly in South Africa. However, it was two grandmothers from GAPA, Mrs Fisher and Mrs Sohena, who really caught the attention of members. Mrs Sohena, speaking in Xhosa, with no script, told Parliament directly what it was like to be a grandmother witnessing her children die and then having to bring up her grandchildren. These two grandmothers spoke about the problems experienced at clinics, such as standing in long queues; living without shelter in winter and getting wet and hungry; the experience of crime in townships by the elderly and the slow response from police to reports of elder abuse; and the general lack of affordable accommodation for the elderly, especially those caring for grandchildren.

These presentations, combined with all the others made over the two days of public hearings, led to a flood of questions from members of Parliament, who made

their dissatisfaction with the Bill known just a few days after the hearings, on 9 September 2005. They highlighted the poor drafting quality, the focus on facilities rather than community-based care, the lack of a coordination strategy and their doubts about the constitutionality of the Bill.

Another meeting took place on 12 October 2005 with the Department of Social Development, and on 16 November 2005 there was another important discussion on whether to withdraw the Bill in its entirety or continue efforts to fix it. The latter course was decided on and the Bill was eventually finalised in March 2006. Possibly the most significant change to the Bill was the sequencing of the legislation to reflect the ageing process, from living in the community with limited support through to living in residential facilities because of the need for specialised frail care.

This was a marked change from the Aged Persons Act 81 of 1967, which focused squarely on the provision of residential facilities to older persons. It must be remembered that the legislation was drafted in 1967 to benefit the white population, including Afrikaans-speaking white persons, an unusually high proportion of whom placed their elderly in residential facilities. Erasing the vestiges of the 1967 Act in order to ensure that the new legislation would address the imbalances of the past was a complex task, further complicated by the poor drafting of the initial versions of the Bill.

The Older Persons Act

The OPA proposes some wonderful community-based programmes to promote the human rights of older persons, and in particular their socio-economic rights. These programmes would offer older persons the following, among other things:

- economic empowerment (section 11(2)(a));
- promotion of skills and capacity to sustain livelihoods (section 11(2)(f));
- nutritionally balanced meals for needy older persons (section 11(2)(e));
- hygienic and physical care (section 11(3)(a)); and
- health care for frail older persons and other older persons determined by the Minister of Social Development (section 11(3)(f)).

Such programmes would give effect to the rights guaranteed in the Constitution of South Africa (the Constitution), particularly the rights to have access to health care services and to sufficient food and water (section 27(1)). These rights are mirrored in the International Covenant on Economic, Social and Cultural Rights (ICESCR), which recog-

nises the right to work (article 6), the right of everyone to an adequate standard of living (article 11) and the right to enjoyment of the highest attainable standard of physical and mental health (article 12).

The OPA is also notable for explicitly condemning and criminalising all forms of elder abuse, requiring mandatory reporting of elder abuse and providing for services and remedies in those instances where abuse has occurred.

The OPA looks somewhat different from the Bill that was presented to Parliament. There are also sections that do not conform to some of the recommendations that were made by the SAHRC and the many civil society organisations that took part in the process.

The 60/65 age differential

The OPA contains a fundamental flaw, namely that it discriminates between men and women on the basis of age. In terms of the definitions section, “older person” means a person who, in the case of a male, is 65 years of age or older and, in the case of a female is 60 years of age or older’ (section 1). Although it was pointed out to the relevant Portfolio Committee that the age differential was contrary to the equality clause in the Constitution, Parliament proceeded to pass the legislation. At that stage, the age differential still existed in the qualifying age for a state old-age grant. It took litigation in the Pretoria High Court (*Christian Roberts and Others v Minister of Social Development and Others* Case No. 32838/2005) in 2007, challenging the Social Assistance Act 13 of 2004, to set in action a course of events that would change this.

The then Minister of Finance, Trevor Manuel, announced in February 2008 that the qualifying age for old-age grants would be reduced and that by 2010, all persons aged 60 and over would qualify for a state old-age grant. Since this victory, there has been silence on the continuing age discrimination against men. Essentially, the OPA is only applicable to men who are 65 and older and women who are 60 and older. Thus a man between the ages of 60 and 65 cannot benefit from any services established in terms of Chapter 2 of the OPA, which seeks to create an enabling and supportive environment for older persons, or programmes established in terms of Chapter 3, which supports community-based care and support services for older persons. Furthermore, the provisions aimed at protecting older persons from abuse and providing remedies are also not applicable to men between the ages of 60 and 65.

Protecting the elderly from abuse where they live

The OPA provides remedies, in addition to those of the Domestic Violence Act 116 of 1998, for instances where an older person is abused in her home. Some of the remedies and corresponding procedures now in the OPA have been on the statute book since 1967, when the Aged Persons Act was passed, but during the SAHRC’s consultations with stakeholders, we did not find a single person who knew of them. Now contained in sections 28 and 29 of the OPA, these measures provide for a magistrates’ court inquiry in instances of alleged elder abuse.

Section 28 provides for steps to be taken against all persons who abuse the elderly and not just those who accommodate and care for the elderly, as stipulated in initial drafts. So, with minor changes to the name of the section, these measures remain on our statute book. It will be interesting to see whether they are ever used.

These provisions also impact on the right to housing. In General Comment 4 on the right to adequate housing of the United Nations Committee on Economic, Social and Cultural Rights (UN doc. E/1992/23), the right to housing is interpreted as ‘the right to live somewhere in security, peace and dignity’ (para 7). The General Comment goes on:

Adequate shelter means ... adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities – all at a reasonable cost (para 7) [quotation marks omitted].

Conclusion

There is much that still needs to be done for the elderly in South Africa, and it is important that we use international human rights instruments to help us articulate exactly what that is. We need to infuse caring for the elderly with a strongly human rights-based approach. Such an approach, based on the principles of equity, participation and accountability, will go a long way towards ensuring that we reach these goals sooner.

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Advancing the socio-economic rights of older persons in South Africa

Leaping the implementation barriers of the Older Persons Act

Jill Adkins

The Older Persons Act 13 of 2006 (OPA) has significant potential to make a positive impact on the socio-economic rights of older South Africans. With its regulations published only in April 2010 (Government Gazette No. 33075), however, implementation of the Act remains in its infancy. This paper calls for increased government and civil society awareness, commitment and coordination to bring the OPA to life.

The socio-economic rights of older South Africans are grounded in law. While South Africa has yet to ratify the International Covenant on Economic, Social and Cultural Rights of 1966, the Constitution of South Africa (the Constitution) and various national laws create a legal framework supporting the socio-economic rights of older persons. The OPA is a substantive addition to this framework.

This paper identifies the socio-economic rights of older persons articulated under South African law as a backdrop against which to analyse the rights highlighted in the OPA. The OPA addresses elder abuse, community care and services, and the institutional care of older persons.

Despite the potential of the OPA to improve the lives of older South Africans, there is cause to be concerned about its timely and full implementation. The most obvious reason for concern is the long passage of time between the year in which the OPA was enacted, 2006, and when its regulations were published, 2010. Even more troubling is the lack of an effective coordinating mechanism to ensure that all levels of government and civil society carry out their mandates. This paper argues that a number of concrete steps are necessary to ensure that the promise of the OPA is realised and the socio-economic rights of older South Africans are enhanced.

South African law and rights of older persons

The socio-economic rights of older persons in South Africa are established in the Constitution and further protected in a number of national laws. Several provisions of the Constitution directly pertain to older persons. The Constitution prohibits unfair discrimination based on age, provides for the right to have access to social security, and secures the right to basic adult education. Other sections of the Constitution create socio-economic rights which apply to

all persons, including the right to use language and participate in the culture of one's choice and the rights to have access to adequate housing, health care services and sufficient food and water.

Beyond the Constitution, the socio-economic rights of older persons are promoted and protected in a loose network of national legislation, including laws that

- provide the old age grant for persons aged 60 and older who meet eligibility criteria (sections 4(e), 5(2) and 10, Social Assistance Act 13 of 2004, read with the Social Assistance Amendment Act 6 of 2008);
- prohibit unfair discrimination based upon age (section 191 and schedules 3(d) and 4(d), Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000);
- prohibit unfair age discrimination in employment specifically (section 6(1), Employment Equity Act 55 of 1998);
- allow the Minister of Health to determine circumstances under which vulnerable groups, including older persons, may qualify for free health services at public health facilities (section 4(1), National Health Act 61 of 2003);
- protect against the eviction of vulnerable persons, including the elderly (sections 4(6) and (7), Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998);
- create adult basic education and training programmes (see generally Adult Basic Education and Training Act 52 of 2000);
- give priority to social housing for certain groups, including the elderly (section 2(1), Social Housing Act 16 of 2008); and
- protect groups of disadvantaged consumers, including seniors (section 3(1), Consumer Protection Act 68 of 2008).

The implementation and administration of these laws fall under various departments of government, depending on the subject matter. The Department of Social Development (DSD) is generally regarded as the lead governmental stakeholder on issues related to older persons in South Africa. This is not to say, however, that DSD's overall 'leadership' role is officially mandated; and neither does it mean that the department commands any significant intergovernmental coordinating authority, particularly as it pertains to those laws under the charge of other departments. Rather, DSD's leadership is more by default than anything else, although it is legally responsible for administering the old age grant as well as the OPA.

Rights under the Older Persons Act

The OPA explicitly states that one of its purposes is to protect the rights of older persons and, further, that the rights articulated in the OPA are to supplement the constitutional rights of older persons. The rights described in the OPA fall into both the civil/political and socio-economic categories and, in doing so, demonstrate the interrelatedness of all human rights.

Regarding equality and socio-economic rights specifically, section 7 of the OPA states that an older person 'may not be unfairly denied the right to ... access opportunities that promote his or her optimal level of social, physical, mental and emotional well being'. The rights of older persons to participate in income-generating activities and to live in appropriate housing situations are further set out in the OPA.

Where community-based care and support services are being provided, older persons have the rights to remain in their homes for as long as possible, to receive care and protection from family and community, and to participate in activities which continue to develop their potential.

Older persons in residential facilities providing 24-hour service have a host of rights, some of which are socio-economic, including access to basic care, participation in social, religious and cultural activities, and access to assistance and visitation.

The decision-making process through which an older person is placed in a residential facility receives special attention in section 21 of the OPA. While this section does not speak explicitly of rights, it seeks to protect the rights of persons who may be entering a residential facility. An older person may not be admitted without his or her consent. The older person's right to choose such a living environment is thus protected. When an older person lacks the capacity to consent, the OPA provides for an alternative decision-making process. Even when capacity to consent is lacking, the manager of the residential facility is required to inform an older person of the intended admission if he or she is capable of understanding.

Interestingly, the OPA is silent on rights in the sections addressing older persons suffering abuse or needing care and protection. The Act rightly employs broad definitions for situations in which older persons are being abused or in need of care and protection. However, the Act fails to recognise that these are potentially sensitive situations requiring nuanced remedies. Incidents of abuse and neglect often originate with caregivers who may be family members with whom the older person resides. That the OPA fails to accord any rights to older persons on matters potentially concerning their family, housing and health, not to mention their privacy and finances, is a grave oversight.

Steps to increase the effectiveness of the Older Persons Act

The OPA is merely a piece of paper without committed people who are capable of fulfilling its requirements. The provisions of the OPA affect the lives and jobs of a vast array of persons: older persons and their families and car-

• • The OPA is merely a piece of paper without committed people who are capable of fulfilling its requirements. • •

egivers; service providers; government officials; public servants such as social workers and law enforcement officers; medical and other professionals (eg lawyers, accountants, bankers); and civil society organisations. Concrete steps are needed to ensure that the OPA is comprehensively brought to life in the most timely and cost-efficient manner possible. The following discussion outlines a few recommended steps.

Create a coordinating body

South Africa needs a governmental coordinating entity dedicated solely to the interests of older persons. In fact, this was the recommendation of The Value Planning Company (Pty) Ltd, a company hired by DSD to prepare an implementation strategy for the OPA – and recent information from DSD is that an interdepartmental coordinating body may be in its initial stages. However, the mandate of a coordinating body should not be limited to the subject matter of the OPA, but should rather encompass all laws, policies and programmes with particular applicability to older South Africans.

The form of this coordinating entity is less important than the fact of its authority. Ideally, a permanent inter-ministerial council or commission would be created with representatives from each department, led by a chairperson in a full-time paid position. Short of that, however, there could be an independent governmental office focused solely on ensuring the implementation, administration and evaluation of those laws and programmes most closely affecting older persons.

Whatever form the coordinating body or office might take, the essential point is to bestow it with authority. While there may be certain advisory and advocacy functions to perform (and the South African Older Persons' Forum, a non-governmental entity, serves in advisory and advocacy capacities), this body must have the power to gather information and hold government employees accountable in some fashion.

The coordinating entity would serve as an umbrella organisation, ensuring that all departments are fulfilling their legal obligations to older persons, as well as helping to avoid the duplication of effort that often accompanies a lack of shared information. One question is the extent to which government officials have a comprehensive grasp of all the laws, policies and programmes affecting older persons, not to mention existing research and data on older

● ● Outside of the small world of service providers and care facilities, are older persons and their families aware of the OPA? ● ●

persons and on population ageing. The result of such a lack of coordination can only be gaps in services and poorly implemented programmes with no supervision or oversight.

Launch a comprehensive awareness campaign

Who knows about the OPA and especially its provisions on elder abuse? Outside the small world of service providers and care facilities, are older persons and their families aware of the OPA? How many professionals know what elder abuse is, and that the OPA obliges them to report such abuse? It goes without saying that the OPA will never accomplish its objectives if allowed to languish in the dark closet of public ignorance.

A nationwide awareness campaign would awaken South Africans to the rights of older persons regarding abuse, protection, services, community-based care and residential care. As noted earlier, the OPA affects the lives and jobs of a variety of people who all must be made aware of their rights and obligations. Most critical, however, is the need to educate older persons and their families, so that they know they need not tolerate abuse or poor quality care and services. Rights and services, even those of top quality, are of limited use if their target market is unaware of their existence.

The need for increased awareness about older persons' issues and services was raised repeatedly in the 2009 national study 'The Status of Older Persons in South Africa', commissioned by the DSD. Only 39% of managers of service centres and luncheon clubs for older persons were aware of the OPA, and the figure dropped to 27% for the staff of these facilities. Knowledge about the OPA has likely increased since 2009, but these statistics illustrate the general information gap about the laws affecting the rights of older persons.

Provide sufficient funding in governmental budgets

An unfortunate but inescapable fact is that laws need financial support for implementation. And it is equally inescapable that the South African government, like most governments, each fiscal year faces the unenviable task of allocating limited resources among what seems to be an endless list of worthy needs.

The South African government enacted the OPA, so its obligation to fund the OPA sufficiently is self-imposed. The potential to be realised in funding the OPA lies not merely in ensuring governmental capacity to fulfil its obligations,

but also in using the OPA's ability to leverage the resources (human and financial) of non-governmental organisations.

The OPA states that the Minister of Social Development may offer financial support to third parties providing services to older persons. While the OPA itself makes such financial support discretionary, the very first chapter of the OPA's regulations sets out the procedures under which service providers should apply for financial awards and subsequently manage any assets purchased with that funding.

By providing for financial awards to service providers, the OPA clearly recognises the limited ability of government to deliver directly to older persons the wide array of services needed and, indeed, anticipated by the OPA. Government cannot be all things to all people. In fact, in many circumstances the most efficient use of government resources is to financially enable those persons and organisations that specialise in service delivery. This is not to say, however, that DSD can fully delegate away (whether to provincial governments or to non-governmental third parties) its responsibilities under the OPA. Without doubt, DSD needs financial and human resources to carry out the daunting load of obligations that accompany the OPA.

These suggestions for action – a coordinating body, an awareness campaign and funding – are but three among many possible steps that would improve the implementation of the OPA. Civil society, for example, could strengthen the progressive realisation of the rights of older persons by organising itself better and, in fact, assuming a leadership role. The hands of governmental officials are often politically tied. Civil society may need to drive the dialogue for change, as the organisation Equal Education has done for education in South Africa, particularly in the past year.

Conclusion

The South African Older Persons Charter will be officially launched by DSD this year. The South African Plan of Action on Ageing is currently at draft stage. The South African Older Persons Policy was adopted by DSD in 2006. These efforts are laudable and have a place in a comprehensive strategy concerning the issues of older persons and ageing. However, instruments such as these are window dressing. Soft policy documents provide information, inspiration and guidance, but they are weak tools for enhancing socio-economic rights or implementing law.

South Africa possesses a decent legal framework for protecting, promoting and fulfilling the socio-economic rights of older persons. Despite this framework, the situation of older persons is too often characterised by poverty and poor access to services – which all points to inadequate implementation of laws and policy.

A growing pool of research provides credible evidence that implementation is a serious challenge to DSD's obligations to older persons. In addition to the lack of awareness regarding the OPA found in the 2009 study referred to above, a recently released audit of residential facilities revealed that only 61% of managers of residential facili-

ties were aware of DSD's norms and standards pertaining to residential facilities, and that a majority of the facilities were not in compliance. There can be no better indicator of implementation problems than such a lack of awareness by legal duty-holders.

The mission to make socio-economic rights real for older persons in South Africa lies with both government and civil society. Government needs, in essence, to put its money where its legislative mouth is, and appropriate a sufficient budget for the OPA. Civil society and service providers must creatively use the opportunity for financial

awards under the OPA, while leveraging their own resources to comply with the OPA. And finally, government and civil society must work in partnership to reduce the abuse of older persons and to improve the range and quality of community-based services and residential facilities.

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The status of older persons in relation to the implementation of policies and legislation and challenges relating to social security

Roedolf Kay

South Africa's population is ageing: we have a falling birth rate and more people are living to a greater age. The HIV and AIDS pandemic is leaving a gap between the youngest and the oldest, placing new burdens on the older population and reducing their family support. While in most provinces the population of older persons is 6–8% of the total population, actual numbers of older persons vary widely. According to a Community Survey conducted in 2007 by Statistics South Africa, the number of people aged 60 and above ranged from 95 000 in the Northern Cape to more than 720 000 in the Eastern Cape and KwaZulu-Natal.

The following paragraphs briefly consider some key issues relating to the Older Persons Act 13 of 2006 (OPA), particularly the delegation of powers and implementation of the OPA, and to the payment of social security to older persons.

Implementation of the Older Persons Act

The OPA was a direct result of a ministerial committee appointed in the year 2000 to investigate the neglect, ill-treatment and abuse of older persons in South Africa. The committee heard repeatedly in public hearings, conducted in all of South Africa's nine provinces, that older persons felt overlooked and forgotten. Despite the urgency of the need for older persons' rights to be protected by legislation, the regulations to the OPA were only signed into power by President Jacob Zuma in April 2010.

Since the finalisation of the OPA, the delay in the delegation of powers to provinces has been the subject of extensive lobbying by the South African Older Persons' Forum and other civil society role-players in the aged sector. Until the delegation of powers has been formally executed, no progress of any kind can be made in implementing the OPA. There are several other prerequisites to the effective implementation of the OPA:

- Funding for the older persons programme will need to be increased substantially. Current funding, excluding the budget for residential care facilities, allows for only R240 million for other services, which works out at approximately R100 a year per vulnerable older person.
- Thousands of social workers will have to be trained to meet the critical shortage of such workers in South Africa.
- The cooperation of other government departments, service providers, and many other stakeholders is required.
- Pivotal to the effective implementation of the OPA is the state of readiness of provinces to implement it.

Payment of social grants to older persons

One of the main objectives of the social security system in South Africa is to address poverty. An effective and user-friendly social security payment system for South Africans would therefore require an objective review of the failures and successes of the current payment system, using the Millennium Development Goals as a primary point of ref-

erence to measure the current level of success in protecting vulnerable individuals and maintaining a high standard of universally accepted measures for safeguarding human rights. A workable and effective reform of the payment system would bring relief to thousands of poor and vulnerable older persons and other social grant recipients, taking into account that the disbursement of the old age grant to vulnerable older persons, especially in rural areas, is unlikely to be achieved by any single payment method. For instance, the infrastructure for bank payments is not available in many rural areas.

Conclusion

The Madrid International Plan of Action on Ageing of 2002 calls for 'social security provisions in terms of social assistance grants provided by the government to be made accessible to all older persons including those in the rural areas' in order to provide an enabling and supportive environment for older persons. It is the responsibility of state and non-state agents alike to ensure that social grant recipients, arguably among the most vulnerable in our society, are treated with respect and dignity in the spirit of *ubuntu*, which sees human needs, interest and dignity as inherent to human existence.

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The burden of ageing in South Africa

Monde Makiwane

In 2000, the world's elderly population stood at 600 million. By 2050 the figure is projected to reach two billion – equal, for the first time, to the child population (aged 0–14). Currently, persons aged 60 and above make up 10% of the world population, which is unequally distributed between the developed and the developing worlds: older persons constitute about 20% of the developed world's population and 8% of the developing world's (Mirkin and Weinberger, 2001: 41).

Developing countries will experience the steepest increase in the older population segment within the foreseeable future. Already today, over 60% of the aged population live in developing countries, projected to increase to around 75% in 2025 and 85% in 2050 (United Nations Population Division, 2002).

The 80-and-above age group of the world's elderly represents the fastest growing population in the world and is expected to increase fivefold by 2050 from 1% to

more than 4% of the total world population (Mirkin and Weinberger, 2001: 41). In Africa alone, there were about 40 million people over 60 in 2002. This figure is projected to reach 103 million by 2050.

This paper examines the situation of South Africa's elderly with specific reference to the growing burden of support that is being heaped on them by society. It argues that the critical role played by older persons as breadwinners in multigenerational households needs special recognition and support from society as a whole.

Ageing in South Africa

Trends in South Africa are not very different from those in the rest of the world and Africa generally. In South Africa, the proportion of persons 60 and older is projected to almost double in the next 30 years (2000–2030), from 7% percent to 12%, because of a marked decline in fertility in the past few decades. The HIV and AIDS pandemic has also contributed to this change in population structure, with a higher mortality of young adults, especially women of reproductive age. Infant mortality rates have also increased by nearly 20% (Legido-Quigley, 2003). Although

population ageing is usually caused by declines in fertility accompanied by rapid declines in mortality (see generally Kimuna, 2005), the number of older people in Africa in general, and South Africa in particular, is increasing despite high mortality.

Residential patterns of older persons in South Africa

Most black elderly people reside in rural areas. The trend is that as they get older, they are more likely to move away from urban areas. This is a common experience in African countries where workers move back to their rural homesteads after reaching pensionable age. As a result, rural areas carry a disproportionate burden of caring for the elderly.

The majority of older people in developing countries live with their children. Cultural norms such as filial piety offer part of the explanation, but closely interwoven with cultural preferences are economic realities. Members of different generations are supposed to benefit from economies of scale created by multigenerational households. It has, in the past, been assumed that the elderly are the biggest beneficiaries in multigenerational households, both economically and as recipients of care, but emerging evidence shows that older persons are not only major economical benefactors of such families, but also major givers of care.

There is minimal data on how extended family structures including several generations affect the quality of life of elderly persons. These families can be viewed as sites of mutual beneficence among generations or, on the other hand, as sites of intergenerational conflict and parasitic relations. The case of the Eastern Cape, which is described below, presents a poignant situation in which older persons are shouldering an ever-increasing burden of support, at the expense of their well-being.

The Eastern Cape example

The Eastern Cape generally has a high rate of households that are headed by older persons. Data from a 2007 Community Survey (a national study conducted by Statistics South Africa) indicate that most people aged 65 and older (76.9%) were heads of the households in which they lived

and 12.4% were spouses of the head. As many as 59% of household heads in this age range were women. The bias towards the poor in elderly headship is demonstrated by the fact that as many as 64.2% of African households were headed by individuals aged 65 and older, compared to 32.3% among whites and 26.1% among Indians. In addition, Alfred Nzo, O.R. Tambo and Ukhahlamba municipal districts, the poorest areas of the Eastern Cape, were also characterised by high rate of elder headship.

The poor municipalities are also bucking the trend of declining household size in the region. In these municipalities, there was a substantial increase in household size from 2001 to 2007. For instance, O.R Tambo, the poorest municipal area, had an average household size of 4.9 in 2001, which increased to 5.2 in 2007. This is in sharp contrast to more affluent regions of the Eastern Cape, where there were fewer older-person-headed households. Nelson Mandela Bay, the richest municipality in the province, had an average household size of 3.8 in 2001, which declined to 3.7 in 2007. As in all the Eastern Cape municipal districts, there was a decline in the rate of childbearing during the period.

The plausible explanation for the increase is that poor households, which are mostly headed by older persons, received an influx of indigent relatives and non-relatives during the period. Thus older persons, in addition to sustaining poor offspring, absorbed other poor members of the community.

Conclusion

Older persons tend to live in poorer households. More importantly, households headed by older persons with access to social security have become a refuge for members of other generations who have no income of their own. This has implications for social policy, as the basic social services and financial support for older people might need to be restructured to accommodate the additional caring role they play in society.

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The quality of health care for older persons in South Africa

Is there quality care?

Sebastiana Zimba Kalula

South Africa has a multi-ethnic population, and the ethnic distribution of the older population (60 and older) is blacks 62.7%, coloureds 8.8%, Indians/Asians 3.9% and whites 24.5% (Statistics South Africa, 2010). For socio-political reasons, the majority of the black older population were disadvantaged throughout the course of their lives and suffered the cumulative effects in old age. The population is largely poor and depends on the state for income (a social pension), and for health and social care services, which has implications for future public sector care and service provision.

The epidemiological transition that accompanies population ageing shifts a population's disease profile from one of predominantly communicable diseases, and conditions related to nutrition, reproduction and motherhood, to one of chronic or non-communicable diseases (Yusuf et al, 2001). Hence a shift in the disease pattern to a greater prevalence of chronic disease and disability leads to a greater demand for health care services such as chronic care, for which the demand is greatest in the older population. In addition, a growing older population, as well as increasing longevity, will result in a heightened demand for long-term care and community support services, both of which are underprovided in South Africa at present. Older persons rely mainly on informal sources of care, primarily the family. Finally, the provision of health care to meet the growing demand will be severely challenged by spiralling costs.

What is quality health care?

'Quality health care' describes health services for individuals and a population that increase the likelihood of desired health outcomes and are consistent with current professional knowledge. To deliver quality health care, a health system needs to work well for patients and professionals alike, as well as people who take care of patients. The acronym STEEEP has been created to define quality health care: that is to say, all health care should be safe, timely, effective, efficient, equitable and patient-centred (Institute of Medicine, 2001). Hence the care should

- not harm the patients it is intended to help (be safe);
- minimise unnecessary waits and harmful delays (be timely);

- be based on sound scientific knowledge (be effective);
- not be wasteful (be efficient);
- not vary in quality because of patient characteristics (be equitable); and
- be responsive to individual preferences, needs and values (be patient-centred).

Health care facilities in South Africa

In recent years, South Africa has had to distribute scarce resources allocated for health care to meet new challenges such as the HIV and AIDS epidemic in particular. The health care system has also prioritised and increased its resource allocation for maternal and child health, as well as health care needs of younger adults. Older health care clients have been marginalised in health service provision and delivery. Earlier, the national Department of Health redesigned the health care system to emphasise a primary care approach aimed at extending access to affordable health care to a previously excluded sector of the population (Benatar, 1997). The country operates a three-tiered health care system, under which 90% of clients are served at primary care clinics, 8% treated at secondary level community hospitals and only 2% referred to tertiary levels of care (Western Cape Department of Health, 2005). Theoretically, interdependence within the system makes it essential for services at all levels of care to remain fully operational and for referrals between different levels of care to be seamless. This has however not been the case.

Primary health care centres are the point of entry to public health services for the majority. Patients may be referred from this level to either secondary or tertiary levels of care depending on individual need and systemic arrangements. However, there are no dedicated services for older clients at the primary level, and these clients must compete for services with all other age groups. The preventive, curative and rehabilitative needs of older health care clients are mainly integrated into general sessions at primary clinics. However, in practice, older patients are marginalised at the facilities, and very few are referred to secondary or tertiary levels for investigation and management. Quality health care is thus available to only a few older persons who are given the opportunity for management at higher levels of care.

Different services are provided at different levels of care. No specialists are available at primary level, but some work at secondary level, carrying out specialised diagnostic and treatment services. Tertiary level care is mainly provided by specialists, and offers highly specialised diagnostic and treatment services.

Health care provision

The provision of health care to older patients entails the management not only of acute diseases, but also of a complex of multiple chronic diseases, reduced physiological reserves and multiple drug prescriptions, as well as psychosocial needs. Health professionals at primary care centres are, for the most part, poorly resourced and lack the knowledge and skills to address the unique medical needs of older individuals. A lack of special skills in the management of the older population may on occasion lead to treatment errors.

Despite the shortage of specially trained practitioners, most training institutions have no curriculum on the clinical care of the elderly. Nationally, only eight registered geriatricians are available to serve a population of 3.8 million older people. Virtually no nurses and other professionals in fields allied to medicine have special training in geriatric care. Gerontology nursing training has been removed from the nursing curriculum. The absence of postgraduate programmes, with little or no undergraduate training, trivialises the subdiscipline, and health professionals emerge from training institutions with inadequate knowledge and skills to care for elderly patients and to serve as role models. Only four of the eight medical schools in South Africa are registered for training in geriatric medicine. There are no dedicated geriatric services in rural areas. Health care services targeted at older adults, as well as research, education and training in geriatrics and gerontology, have received scant attention. As part of a plan for the modernisation of tertiary services, the development of geriatric care was singled out as one of the areas needing urgent expansion (Department of Health, 2003). However, there has been no indication about the implementation of this plan, now or in the future.

Health care is provided free to social pensioners at public health care facilities. However, older clients' dissatisfaction with such services has been widely documented (Joubert and Bradshaw, 2006; Marais and Eigelaar-Meets, 2007). Points of dissatisfaction pertain mainly to access barriers to care: the distance and cost of travelling to a facility; discriminatory and depersonalising behaviour and rudeness on the part of health professionals; overcrowded and understaffed clinics and long waiting times; shortages of medication; the unavailability of assistive devices; and a perceived lack of interest and respect shown to older clients.

The lack of health care services is most critical in rural areas where infrastructure is underdeveloped, distances are vast and transportation is problematic. Some of these barriers and the implications for quality health care, and indeed whether all older persons who need health care are able to access it, are discussed briefly below.

Overcrowding

Primary health care centres are overcrowded, and elderly clients therefore tend to avoid seeking health care for conditions perceived to be minor. Consequently, they tend to approach health care centres at advanced stages of an ill-

● ● Only four of the eight medical schools in South Africa are registered for training in geriatric medicine. ● ●

ness and miss an opportunity for management at a time when the chances of reversing the condition would be optimal.

Lack of transport

Poor older persons rely on public transport or family to access health care facilities. The cost of public transport may be prohibitive for some, and public transport has not been adapted for use by elderly patients who may be frail, or for patients with disabilities. On account of their own work commitments, family members may not be available to chaperone an older patient, or the family may not have a car.

Appointment system

The lack of an efficient, or indeed any, appointment system requires clients to queue from as early as 04:00 in the hope of being attended to that day.

Inadequate public health education

Ignorance and other demands on them may lead older clients to delay seeking health care. Access to a health care facility may be delayed when older persons and/or their families attribute symptoms of a disease to the ageing process.

Understaffing and inadequate skills

The assessment of an older patient with a complex of multiple diseases may be inadequate owing to a lack of resources, and because a small number of health care professionals have to attend to a large number of clients. A lack of knowledge and skills may lead to unintentional mismanagement, with health care professionals also attributing symptoms of illness to old age.

Shortage of medication

Chronic conditions are often inadequately managed, as irregular pharmaceutical supplies result in patients intermittently forgoing medical therapy for chronic conditions.

Preventive care

Chronic diseases of lifestyle (cardiovascular disease, strokes, cancer, chronic respiratory disease and diabetes) are a major cause of morbidity and mortality in the older population. These diseases are caused by known modifiable risk factors (unhealthy diet, physical inactivity, tobacco and excessive alcohol use) and can be prevented. In South Africa, chronic diseases of lifestyle were responsible for

84% of older person deaths in 2000: cardiovascular disorders were a primary cause of death, while ischaemic heart disease and strokes together accounted for almost a third of deaths (Joubert and Bradshaw, 2006). Older persons are generally not exposed to health promotion and preventive health care. A good example is HIV and AIDS, for which media prevention and health promotion messages are targeted at the young.

With the increase in the prevalence of chronic disease and an expanding older population, there is growing concern about the provision and quality of health care for older persons in the future. The heightening demand for health care services and long-term care facilities will lead to an escalation in costs, and affordability issues for the state and society are becoming paramount. To this end, it is widely recommended that people be encouraged and helped to take better care of themselves throughout the life course, and thus not only live longer but enjoy a healthy and active old age. To achieve this state, chronic conditions and disabilities need prudent management and rehabilitation as they occur.

Rehabilitation

An aim of medical management in an older person is to maximise functional independence and maintain independent functioning for as long as possible. Rehabilitation requires a multidisciplinary team: hence the need to educate and train all health professionals in the health needs of older persons and to involve them in the management of those needs. Every older person should undergo rehabilitation unless there is a specific contraindication (a condition or factor that serves as a reason to withhold a certain medical treatment), such as dementia, or other comorbidity (one or more disorders or illnesses occurring in the same person, simultaneously or sequentially, in addition to a primary disease or disorder) that may render the process impossible. Rehabilitation services are limited and preferentially offered to younger people with disabilities. Even where rehabilitation facilities are available, the challenge of access to such facilities remains problematic for the majority of the older disabled persons.

Community services and institutional care

There are no health care teams to provide comprehensive home-based care. Consequently, all older persons, including the frail, but excluding those with access to private health care, are required to access health care at community health centres. The home-based care programme provides a limited service, largely of basic care such as bathing. The previous community-based geriatric services were withdrawn in 1994, and the personnel delivering these services were redeployed to programmes such as childhood immunisation (Joubert and Bradshaw, 2006).

With a diminishing informal support base for the ageing population, there will be an increased demand for formal support in the shape of institutional care, home-based care and community support groups for conditions such as dementia and stroke care. This will have implications for

health and social services provisioning and costs, and require considerable forward planning.

The provision of quality health care to the older population requires the government to

- plan packages of care at each level of care and allocate resources equitably to improve access to appropriate health care for all citizens, including older persons;
- improve capacity by training health professionals in geriatrics and gerontology and equipping them with skills to provide health care to older persons;
- encourage the development of management protocols specific to conditions affecting older persons, to serve as guides for underskilled health professionals;
- increase older persons' participation in health care programmes, as well as in decision- and policy-making, by including them in community health care committees and hospital boards in order to empower them to take control of their health and that of those under their care;
- promote and support research on health and social conditions affecting older persons in order to inform the practice of local evidence-based health care;
- continuously evaluate health systems, encouraging input from end users, including older persons, and set up systems for acting on and correcting weaknesses that impede the provision of quality health care; and
- create positive messages about ageing and help change the ageist attitudes of health professionals and policy-makers.

Conclusion

Inadequate health care infrastructure, resource availability, knowledge and skills, as well as the low priority accorded to older persons' health, all contribute to the marginalisation of older health care clients and impede their quality of life, social inclusion and contribution to mainstream society. Most importantly, the constraints inhibit the promotion of their physical and mental well-being and health. Older persons' susceptibility to deterioration in their physical and mental health, in some cases, as well as social challenges the majority in South Africa face, call for appropriate medical and social intervention. The considerable gaps in the health care systems inhibit the provision of quality health care to the older population. A diminishing population of young adults, who are the potential carers for their older relatives, may lead to an increase in demand for institutional care with added costs. Planning to meet this increasing demand for health care, and for community-based care in particular, is urgently required.

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Supporting older caregivers to persons affected by HIV and AIDS

A policy framework

Sabela George Petros

This paper contextualises the problem of HIV and AIDS as it affects older people in South Africa, particularly individuals who are caregivers to family members infected with or affected by the disease. Based on the findings of an extensive, multi-method investigation conducted in urban and non-urban areas of three of South Africa's provinces (Petros, 2010), it offers a framework to guide policy-makers and planners in appropriate interventions to alleviate the plight of older caregivers and to support them in their contribution to the management of the epidemic. The policy framework is a response to a lack of dedicated policy and programmes to support older caregivers and older persons regarding HIV and AIDS in general, and is intended to encourage and guide key role-players to policy action.

The situation of older caregivers

Evidence has shown that much of the burden of care for persons living with HIV and AIDS and orphaned and vulner-

able children in South Africa falls on older family members, older women in particular. The majority of these persons render care under conditions of extreme deprivation, and they are largely unprepared for this responsibility, and unsupported. To date, the government has neither formally acknowledged the major role that the caregivers play nor given them any support. It has neither viewed older persons as vulnerable to infection with HIV nor recognised that a growing number of individuals are indeed entering old age with the virus. Older persons are not included in routine HIV and AIDS screening, counselling and therapeutic protocols for the public health care sector.

The dire socio-economic and psychosocial situation in which the majority of older caregivers find themselves is exacerbated, moreover, by factors such as the lack of adequate knowledge and resources for caregiving. Also, many are impoverished through having to give up paid work to care for a sick family member. Their household's income and food security, as well as access to other basic necessities, are further diminished when a stricken breadwinner dies. They bear the costs of caring for and schooling affected grandchildren with few resources and little or no help.

Although older persons in South Africa may be eligible to receive a social grant, they typically expend the money on the needs of other household members and neglect

their own needs, particularly in households affected by HIV and AIDS. The disease remains stigmatised, and older caregivers often choose to shoulder the care burden in isolation in their home, forgoing the help offered by non-governmental organisations (NGOs). Older persons have been excluded from the public discourse on HIV and AIDS, and their perceived and real needs are not included in public agendas.

No HIV and AIDS policy exists in South Africa to address the support needs of older caregivers to persons living with HIV and AIDS and of orphaned and vulnerable children. Several international instruments have recognised the caregivers' contribution and plight, and recommend policy actions to support them. The United Nations (UN) Madrid International Plan of Action on Ageing of 2002 commits signatory member states to improve their assessment of the impact of the disease on older persons, and to 'introduce policies to provide in-kind support, health care and loans to older caregivers to assist them in meeting the needs of [adult] children and grandchildren'. The Plan calls specifically for adequate information, training in caregiving skills, medical treatment and care, and social support for older caregivers.

The African Union Policy Framework and Plan of Action on Ageing of 2003 identifies HIV and AIDS as a major problem facing older persons in Africa, and urges member states to support and protect affected older persons in their contribution to the fight against the disease. The framework explicitly encourages the integration of older persons' interests in this regard in state policies and intervention.

The Valletta Declaration on HIV and AIDS and Older People of 2005 recommends that governments and civil society support older caregivers politically and economically, and mainstream them in HIV and AIDS policies and programmes. It calls for policy action that promotes inter-generational cohesion; targets the needs of infected and affected persons in all age groups simultaneously and comprehensively; and provides support through cash transfers, income generation opportunities and micro-loans to households affected by HIV and AIDS, to enable the households to sustain their economic viability and the caregivers to cope.

South Africa is a signatory to all three international instruments.

A policy framework for South Africa

Despite a growing body of empirical evidence and its commitment to the international instruments, the South African government has yet to formulate a strategy to support older caregivers and to target older persons in AIDS prevention and treatment programmes. It is crucial, therefore, that their health care needs and their households' support needs be given urgent attention in policy development and implementation.

The policy framework below is offered as a tool to guide policy-makers and other role-players and stakeholders in the design and implementation of a strategy to sup-

port older caregivers. The framework sets out desired outcomes in six key areas, followed by synopses of situational analysis outcomes and a brief set of policy recommendations in each case.

Desired outcome 1

Strengthened capacity of older persons to care for AIDS infected and affected persons and to protect themselves against HIV infection.

- **Situational analysis**
 - » Caregivers typically render care under conditions of extreme deprivation. They lack formal support and receive only limited support from NGOs.
 - » Most caregivers are knowledgeable about HIV/AIDS, but some hold unorthodox and fatalistic beliefs about the disease.
 - » Most caregivers lack basic equipment (eg latex gloves, plastic aprons) to protect themselves against HIV infection.
 - » Caregivers develop ailments from the stress of caregiving and inadequate access to health care services.
 - » Older persons are excluded from AIDS prevention, screening, counselling and therapeutic programmes.
- **Policy recommendations**
 - » Government at district level should provide caregivers with information, support and life skills training to empower them and enhance their caregiving.
 - » Government at provincial level should provide health care services including AIDS prevention, screening, counselling and therapeutic services to meet older persons' specific AIDS-related health care needs.
 - » Health care service providers at district level should be trained in the sympathetic and effective management of older clients at health service points.

Desired outcome 2

Improved access for caregivers to essential services, including nutrition services, safe water and sanitation.

- **Situational analysis**
 - » Caregivers often have limited access to vital services such as potable water and sanitation.
 - » Caregiving is typically provided in conditions of extreme poverty and with poor housing infrastructure, food insecurity, and only limited income support through social grants.
- **Policy recommendations**
 - » Government at district level should assess older caregivers' dwelling infrastructure, and improve access to safe water and sanitation, if necessary, to facilitate caregiving.
 - » Government should provide grants to older caregivers to support food cultivation for their household.

Desired outcome 3

Involvement of older caregivers and/or their NGOs in HIV/AIDS policy development.

- **Situational analysis**
 - » Neither caregivers nor their NGOs are involved in HIV/AIDS policy formulation, and the caregivers' specific concerns and support needs are overlooked.
 - » For bureaucratic reasons, and owing to a lack of information, very few caregivers benefit from child support grants from the government.
 - » Applications for child support grants to help care for orphans and vulnerable children are often stymied by bureaucratic delays and bungling.
- **Policy recommendations**
 - » Government at provincial level should review and reformulate policy and programmes to ensure non-discrimination against and the inclusion of older caregivers and their NGOs.
 - » NGOs should identify social grants for which household members may be eligible, and help affected households access them.
 - » Government departments should put systems in place to expedite applications for child support grants.

Desired outcome 4

Coordination of activities to support older caregivers at the district level.

- **Situational analysis**
 - » NGOs working with caregivers and the departments of health and social development do not cooperate to meet caregivers' support needs. Government departments typically shift responsibility for older caregivers to other departments and no action ensues. NGOs do not work cooperatively with other NGOs.
- **Policy recommendations**
 - » NGOs and government at district level should build strong working partnerships in which the government helps NGOs support older caregivers.
 - » NGOs should establish coordinating mechanisms at district level to ensure the exchange of information and address caregivers' support needs jointly.

Desired outcome 5

Avoidance of ageism, stigma and discrimination.

- **Situational analysis**
 - » HIV/AIDS-related stigma and discrimination inhibit some caregivers from seeking help, so they render care in isolation.
 - » Some government personnel view HIV as a problem of younger persons only, and do not see older persons as being at risk of contracting the disease.

• • The capacity of older persons to care for AIDS-infected and affected persons must be strengthened. • •

- **Policy recommendations**

- » NGOs and religious bodies should encourage community leaders to talk openly about HIV/AIDS and the impact on older persons.
- » Ageist attitudes of government personnel relating to HIV/AIDS must be changed at provincial and district levels to stamp out discrimination against older caregivers who need help.

Desired outcome 6

Engagement and dialogue with traditional healers and religious bodies on the impact of HIV and AIDS on older caregivers.

- **Situational analysis**

- » Traditional healers play a role in the management of various ailments of clients in both urban and non-urban areas.
- » Some caregivers believe traditional healers can cure AIDS, and some traditional healers believe this themselves. Caregivers pay traditional healers exorbitant sums from scarce resources in the hope of finding a cure for a stricken adult child.
- » Many caregivers believe AIDS is a form of punishment from God and that only divine intervention can remove the problem.
- »

- **Policy recommendations**

- » Government and NGOs should capacitate traditional healers through dialogue and education on the cause and spread of the disease.
- » Government at district level should involve traditional healers in mainstream public health awareness and management of the epidemic, and discourage futile ministrations by traditional healers.
- » NGOs and government should encourage religious leaders to talk openly about HIV/AIDS, and to refute beliefs that the disease is punishment from God.

Conclusion

Recent research evidence has highlighted the difficult situation and support needs of older caregivers to persons affected by HIV and AIDS as well as older persons in general in South Africa. A need for policy and intervention in this area is strongly indicated, to support the caregivers and to mainstream older persons in HIV and AIDS prevention, diagnosis, counselling and treatment programmes. The framework is aimed at forging policy action. The challenge

is now for the national, provincial, local and district levels of government to domesticate the framework, and to formulate a strategy and implement actions as recommended.

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This paper is based on an investigation conducted as part of studies towards a doctoral degree in public health.

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Community-based housing for independent older people Responses by two NGOs

Zoë Paul and Gavin Weir

Marie has been a farm worker all her life. Her daughter died of AIDS, and she has spent the past 15 years bringing up her daughter's two little boys, who are now adults and have left home. Her husband, Charlie, who worked on the farm, died of cancer last year, and since then she has had to share her bed with two of her cousin's teenage children. The farmer wants Marie out, and we can understand his point of view: he needs the house for another worker to take Charlie's place. She has absolutely nowhere to go and has never lived in a village, much less a town. She is a simple, good farm woman who is now terrified about how she will spend the rest of her life. So what are we doing about our elderly farm workers whom no one wants, but who need to stay connected to their own farm worker communities?

Sannah lives in a rural village. She has been a grape picker all her life. She is now a widow living in a backyard shack with her daughter and two teenagers, one of whom is a tik addict. She has a terrible life. She is frightened and she sees no hope for the future. Yet twice a week in the afternoons she voluntarily goes round to the local community centre and mops the floors after the children have been there for homework supervision. She also makes sandwiches and hands them out to hungry children at some of the local schools. She's a good, good lady and she doesn't deserve to be so scared, to live like this. This is just one of hundreds of rural villages throughout our province where elderly people such as Sannah are facing the future fearfully, living in horrible conditions.

The right to have access to adequate housing and the right to social security and assistance are guaranteed in the Constitution of South Africa to 'everyone' (sections 26 and 27). This includes older persons, who are widely recognised as a vulner-

able group requiring special attention. However, it is difficult to talk seriously about notions of active ageing in the community, or the socio-economic rights to decent housing and social security, if older persons do not have access to safe and affordable housing that costs no more than a third of their pension.

This is where Neighbourhood Old Age Homes (NOAH) and Abbeyfield South Africa (ASA) come in. For the past 22 years, NOAH and ASA have been committed to promoting the quality of life of older people. This is in response to homelessness, abuse and loneliness among the elderly, and is done by working with community volunteers to set up small 'family-style' homes. These homes are safe, friendly spaces where elderly men and women can live in ordinary houses, in ordinary streets, and remain connected to, and involved in, their own communities for as long as possible.

It is a simple concept of companionable living, but it has had remarkable results. Older people living in our homes tend to stay healthy and productive much longer simply because they still feel valued, are still productive members of their communities and, most of all, are not lonely. These are some of our guiding principles:

- We affirm that older people have an important role to play in their families, among friends and in the community.
- Overcoming homelessness, loneliness and insecurity can make all the difference to an older person's well-being and quality of life.
- Local people have an essential part to play in helping older people in their community.

Today, ASA has 21 houses: 18 dotted around the Western Cape, two in Johannesburg and one in Durban. NOAH has 12 houses in the Cape Town metropolitan area. Despite these efforts, much still needs to be done for older persons, especially those in peri-urban and rural areas, as well as those living on farms. Pensioners living on R1 080 a month can still afford a dignified life. However, there must be efforts to help them meet their needs and remove barriers to the enjoyment of their rights. It is thus important that homes for the elderly be cost-effective and sustainable.

The spirit of the Older Persons Act 13 of 2006 (OPA) is 'active ageing'. Therefore a community self-help idea that works not only in affluent areas, but also in the poorest urban and rural communities, would go a long way in promoting active ageing. One of the creative ways in which to mobilise communities around the needs of a particular group of people such as the elderly is through community enumerations, a conscious strategy of self-surveying that allows the community to be part of the process, to take ownership and strengthen unity. Data from this profiling exercise is utilised to constructively engage with government for the benefit of the most marginalised and poorest. This research has little value if it does not contribute tangibly and directly to a material improvement in the lives of a certain group of people – in this case, accommodation and care for older people.

This people-driven data gathering process is then used to focus on addressing the needs of older persons by engaging with stakeholders and especially poor communities to find ways to work together to deal with issues such as health and homelessness. This is a powerful means of community mobilisation, because this is where we start to put older people on the map. Today, enumerations open space for dialogue and help the state develop responses that are humane, participatory and inclusive.

It is difficult to promote active ageing when older persons' basic and most fundamental socio-economic right, that to decent housing, is not met. The need for non-institutional cost-effective community-based housing for independent older people is enormous. In the Western Cape province alone, there are over 200 000 social pensioners with only 14 000 state-subsidised housing opportunities, most of which go to assisted living and frail care facilities. There is therefore a need for national, provincial and local governments to provide organisations assisting older persons in relation to housing with the necessary capital. Where such capital is not provided, municipalities and the province must at least allocate land. Organisations have had to appeal to

the corporate social investment sector and public sector for capital investment.

The non-institutional cost-effective model of community-based housing for independent older people employed by ASA and NOAH can be replicated elsewhere, but four elements are crucial for it to be effective. These are: community buy-in (through community enumerations), access to land, capital development and endowment.

Furthermore, community partnerships, engaging with government and other organisations, and even adding value to existing programmes are important. The recent promulgation of the regulations to the OPA has, in fact, provided a catalyst for organisations in the older persons sector and civil society as a whole to advance the interests of older persons through collective engagement with the government as well as one another. NOAH's Sector Task Team for Older Persons (STTOP), for instance, was born out of the need for such partnerships. In October 2009, a workshop was held that considered the major issues facing organisations working in the older persons sector and suggestions for addressing them directly and effectively. The main outcome of the workshop was the creation of STTOP, made up of workshop delegates. STTOP aims to raise the profile of the older person sector through coordinated action. STTOP also intends to establish a robust partnership with the provincial government of the Western Cape. The motivation for seeking such a partnership is to make 'active ageing in the community' a concrete reality for all older persons living in the Western Cape, as well as to promote best practice, innovation and sustainability in the older persons sector.

In conclusion, it must be emphasised that South Africa has a rapidly ageing population and is experiencing a real accommodation crisis for social pensioners, and this has no hope of improving unless organisations in the older persons sector are assisted with the necessary resources. Meeting the needs of elderly people and ensuring that they have comfort, safety, friendship and community should be given sufficient attention, not just by those in the older persons sector, but, most importantly, by the government.

Zoë Paul is the director of Abbeyfield South Africa, and Gavin Weir is the housing coordinator of Neighbourhood Old Age Homes and the convenor of the Sector Task Team for Older Persons (Western Cape).

The Sector Task Team for Older Persons (STTOP) comprises sector organisations committed to coordinated action to promote best practice, sustainability and innovation in service delivery. STTOP's active membership comprises representatives from the following organisations: Abbeyfield South Africa, Cape Peninsula Organisation for the Aged, Communicare, Dementia South Africa, the G H Starck and Rehoboth Centres, Grandmothers Against Poverty and AIDS, Ikamva Labantu, Neighbourhood Old Age Homes, the Western Cape Older Persons' Forum and Nobuntu.

Basic rights vs basic needs

The socio-economic needs of older persons in relation to social and food security

Christelle Cornelius

Caring has become my life story. I worked hard to support my parents, then my children, now my grandchildren and my children again.

There's bread when you go home for your grandchildren. And can buy some other things from the R200. You can do a lot. It adds some cents to our little grants. You know when you are doing this, you are going to get something to eat (An older person).

According to the South African Older Persons Charter (the Charter), which is due to be launched in 2011, the rights of older persons include the fundamental rights outlined in the Constitution of South Africa (the Constitution). These fundamental rights have to be protected and upheld in accordance with the Constitution, as well as United Nations (UN) General Assembly Resolution 46/91, which outlines principles for older persons that governments are encouraged to incorporate into their national programmes whenever possible.

The Constitution guarantees a range of socio-economic rights – including health care, social security, social assistance, food, water and housing – that are applicable to all, and are guaranteed to 'everyone' irrespective of age (section 27). This section guarantees the rights of everyone to sufficient food and to social security, including, if they are not able to support themselves and their dependants, appropriate social assistance. The government is obliged to adopt reasonable legislative and other measures to ensure the progressive realisation of these rights, taking into consideration available resources (section 27(2)).

This paper outlines the challenges faced by older persons in South Africa in relation to their rights to social security, social assistance and food security. These are critical rights in the fight against poverty. The challenges outlined are drawn from the experiences of Ikamva Labantu, whose core objective is to protect and nurture the most vulnerable members of communities, ensuring their dignity and rights as valued members of society. Before considering the challenges, it is important to briefly outline the relevant provisions of the Charter and how Ikamva Labantu has responded to the needs of older persons.

The South African Older Persons Charter

The Charter recognises that older persons' rights are human rights. Section A outlines the rights of all older persons to equality, respect and freedom.

Section B of the Charter deals with the rights of older persons in communities to services, protection and participation. In relation to services, the rights stated in the Charter include: the right to social security or social assistance if unable to support themselves or their dependants; the right to an income adequate to provide food, water and shelter; and the right to affordable and accessible transport. With regard to protection, the Charter provides for, among other things, the rights of older persons to the full protection of the law and to strict safety and security measures at pension pay points. Rights outlined in the Charter that are relevant to participation include: the right to work and earn an income and to participate in decisions about retirement; the right of access to education and training programmes, and to cultural, spiritual and recreational facilities; the right to information and to participate in community life, decision-making and consultation on policies that affect their well-being; and the right to establish associations and share knowledge and skills with younger generations.

Section C of the Charter deals with the rights of older persons living in residential facilities to care, to representation, to respect and to safety and security.

The Charter is thus in line with the Constitution, reiterating rights and obligations contained there. Accordingly, Section D provides some guidance in the form of measures to ensure that the rights in the Charter are implemented.

Responding to the needs of poor and vulnerable older persons

Older persons acknowledge that they have lived through troubled times, worked hard, raised children and cared for their families as best as they could. They have carried a heavy burden, but gained experience and wisdom. They also have a range of socio-economic needs.

In responding to the needs of poor and vulnerable older persons, Ikamva Labantu established its Seniors Sector with the aim of encouraging and promoting active and dignified ageing, and providing relevant services and interventions that allow for the care and support of these vulnerable members of society. Through seniors' clubs lo-

cated in the poverty-stricken township communities, the following services are offered to older persons:

- social interaction and psychosocial support;
- nutritious daily meals;
- training in craftwork such as knitting and beading as income-generating projects;
- information on health issues, health education and health care;
- capacity-building workshops;
- assistance with applying for old-age grants (state pensions); and
- assistance with accessing child support and foster care grants for their grandchildren.

Currently, Ikamva Labantu works with over 650 seniors through its 17 community-based clubs. Through its work, a number of challenges have been identified that are faced by seniors or older persons when participating in these programmes.

Challenges faced by older persons

Income-generation projects have been initiated with the aim of helping improve the income of older persons, who support their households with their old age pensions. Sustaining a home on R1 080 (the current monthly old age pension) is difficult, especially considering that the basic expenses of water, electricity and food alone exceed this amount.

The current project creates basic production line work, and adds R300 to R400 per month to each household's income. This project involves seniors beading 21 metres of string that is used to make 'cause bracelets', such as the United Against Malaria bracelet, in partnership with another NGO, the Relate Trust. Every bracelet sold generates funds for the Global Fund to Fight AIDS, Tuberculosis and Malaria, for malaria prevention efforts such as anti-malaria nets. This increase in income has a substantial impact on the overall well-being of older persons. It has increased their participation, improved peer support and provided income to meet basic needs. One older woman said: 'By doing these beads we are helping fight malaria. It feels good to know we are helping someone who is sick.'

However, a challenge often encountered is that seniors refuse payment through bank accounts because they fear they might lose the social assistance they receive via the South African Social Security Agency (SASSA). Upon investigating the means tests and establishing the threshold, it was discovered that the current income generation programme would not change the social security status of the older persons. Nevertheless, this remains an uncertainty for them, as the information is not freely accessible or available to older persons. SASSA's information on this process is not widely communicated, and community members' lack of knowledge makes them anxious about the implications of their additional income.

Older persons also experience problems accessing their social grants. For instance, grants have been withheld in the identity validation process. Due to fraud experienced

• • One older person's social assistance becomes a household's entire income. • •

with social security and grants, SASSA reviews the validity of grant holders' credentials from time to time. Often the first older persons know about their grants being stopped is at pay points on their grant payment day. SASAA has a three-month notification process, but often the information is not received timeously. As this, for many families, is their only income, stopping grants even for one month has a huge impact. An older person often cannot obtain basic needs such as food and health care facilities and services.

The lack of basic income has multiple effects. Even though health care is free to 'state pensioners', getting to the health facility is costly. Furthermore, in order to take medication, the seniors must have some sustenance, but emergency food and assistance are not readily available. Older persons who are part of an organisation can often be helped to follow up, but for many older persons, the dilemma is where to start.

In fact, food security and access to food are major challenges due to rising food costs, and because one older person's social assistance becomes, in effect, a household's entire income. This makes the older person vulnerable, as their needs are sometimes not prioritised. Ikamva Labantu centres have tried to reduce food insecurity by giving older persons two nourishing meals daily (breakfast and lunch), especially as many older persons, particularly those on chronic medication, need sustenance as part of their medical treatment. There are cases of persons coming to Ikamva Labantu's clubs to access food, or paying their membership fees so that meals can be brought to them if they are too frail to attend club activities. In addition, older persons are often seen taking half of their portion of food home to feed other family members.

Conclusion

It is important for the government to strengthen its efforts to address the socio-economic needs of older persons. Some of the challenges, such as those linked to accessing grants, result from a lack of information and insufficient understanding of the greater responsibilities facing older persons. Older persons have become the core of households, often being carers and breadwinners. Ikamva Labantu urges the government to ensure that the relevant information and services are made accessible to older persons, in order to increase awareness and relieve anxiety, and thereby create active, engaging ageing. Greater strategies for food security should be prioritised, such as community food gardens, a reduction in basic food costs for older persons and emergency food security.

Older persons are often forgotten and not given priority in our communities, yet in many instances they remain the backbone of the community. They have knowledge and wisdom, and yet their voices are seldom heard.

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The South African Older Persons Charter can be accessed at <http://www.saopf.org.za/policies/CHARTER%20PUB%20FORM%20FINAL%20A5.pdf>.

Resolution 46/91 of the general Assembly of the United Nations can be accessed at http://www.un.org/ageing/un_principles.html.

Dementia

The stigma and the challenges

Karen Borochowitz

It is widely acknowledged that South Africa has one of the most rapidly ageing populations in Africa, with increasing numbers between 64 and 70 years of age (Marais, 2007: 14). In 2000, it had the second-highest number of older persons on the African continent, and a 2001 population census showed that about 7.3% of the total population in South Africa were 60 or older (Joubert and Bradshaw, 2006).

Linked to the challenges older persons face is the issue of dementia, a disease that affects the brain: memory, thinking and actions, and sometimes all of these at once. It is a progressive disease, and it comes in many forms. The most common are Alzheimer's disease (about 50–60% of all dementia cases) and vascular dementia.

Dementia affects one in 20 persons over the age of 65, and one in five persons over the age of 80. This means that about 80% of people over the age of 80 do not develop dementia. It should, however, be noted that there are cases of early-onset dementia before the age of 65.

It has been reported that a new case of dementia is diagnosed every seven seconds in the developed world, and an estimated 24.3 million people currently have dementia, with 4.6 million new cases annually. By 2040, the number is expected to rise to 81.1 million (see, generally, Ferri et al, 2005). This indicates a great need for community-based services, welfare and support for people with dementia and their carers, as well as pressure on governments to address this need. Awareness needs to be raised, and policy-makers, governments, medical aids officials, health care professionals, home-based carers and civil society need to be educated in order for them to change their social mind-

set so that they can take into account the needs of the elderly, and more specifically people with dementia.

It is no secret that the elderly, and particularly those with dementia (including Alzheimer's disease), are not a health care priority in South Africa, as they are in many developed countries. South Africa is plagued with many other social and economic ills, including poverty and unemployment, not to mention the burden of diseases such as HIV and AIDS and tuberculosis, and pays inadequate and insufficient attention to the growing needs of older people with dementia. This is owing to a number of factors:

- Dementia is an illness that is still highly stigmatised, shrouded in myth and, in many communities, associated with witchcraft.
- Dementia is essentially an illness, the greatest risk factor for which is age. The statistics above, which indicate the growing number of elderly in South Africa, are therefore of huge concern, especially as many of the elderly are particularly vulnerable due to socio-economic conditions and also face the burden of raising grandchildren because their own children have been lost to the scourge of HIV and AIDS.
- Mental health care services in South Africa need serious review, as they are severely deficient in quality and quantity generally.
- There is a grave lack of specialised geriatric medical and social services for older persons, particularly services to older persons with cognitive and memory impairment.
- Furthermore, in most provinces in South Africa, it is non-governmental organisations (NGOs) that provide services to vulnerable communities. Funding to these NGOs is difficult, but crucial in providing support, awareness, education, counselling and training. Older persons are not seen as a 'sexy' cause, as they are at the end of their life and possibly debilitated by this illness.

There are currently insufficient services in South Africa to cater adequately for people with dementia and their carers. This assertion is substantiated by testimonies that Dementia South Africa has collected during the public hearings on the Older Persons Bill and through its own experience of carers in its support groups, and from community members and others trying to understand the changing behaviour of an elderly person in their community.

Another challenge confronting people with dementia is that of skills shortages, because geriatrics as a career across all medical disciplines is not as attractive as, for example, paediatrics. Moreover, mental health care and geriatric services budgets from government departments, particularly national departments (especially the Department of Health), are wafer-thin. Respite care and treatment for carer burnout are unheard of.

These challenges have implications for the right of older persons with dementia to have access to health care services, a right that is provided for in the Constitution of South Africa (section 27(1)). The government therefore cannot claim to be effectively meeting its constitutional obligation to adopt reasonable measures to ensure that older persons with dementia have access to the necessary health care services (section 27(2)).

There is also insufficient and inadequate safe housing for people with dementia, as old age homes have extremely long waiting lists. Such people therefore are not enjoying the right to have access to adequate housing, also guaranteed in the Constitution (section 26). The Older Persons Act 13 of 2006 (OPA) speaks of 'community care', but communities, home-based carers and community health care workers have to be educated and trained in order to render the care required.

South Africa has yet to develop a social mindset around ageing and dementia that results in the needs of the elderly with dementia being taken into account. The elderly continue to face discrimination, particularly those with cognitive and memory impairments.

A developed country that could be a shining example to South Africa is Scotland. Alzheimer Scotland, with the support of the Scottish Parliament and a working group focusing on the rights of people with dementia, their families and carers, has successfully developed a Charter of Rights for People with Dementia and their Carers in Scotland. An explanatory note to that Charter defines dementia as follows:

Dementia is an illness that over time affects the capacity of individuals to make some or all decisions about their everyday lives, including their money, health and welfare. It gradually affects their ability to communicate, reason and act in their own interests. The illness severely compromises their ability to protect their own rights; because of this people with dementia are often at greater risk of violence, injury or mental abuse, neglect or negligent treatment, maltreatment or financial exploitation.

Rights in the Charter include the right to equality and non-discrimination, the right to participation, the right to appropriate levels of care providing protection, rehabilitation and encouragement, and the right to have their other human rights respected, protected and fulfilled.

Given the political will and the support of all involved in mental health, geriatric mental health, families and people with dementia themselves, I believe it is possible for a similar Charter to be adopted in South Africa. For the time being, the OPA can go a long way towards protecting people with dementia, if effectively implemented.

The decline in memory and cognitive abilities experienced by people with dementia, watched helplessly by their families and carers, must in no way diminish their human rights. Dementia South Africa will continue to advocate relentlessly for the rights of people with dementia, their families and carers – and hope that South Africa too could have a charter of rights to empower people with dementia and their carers to assert their rights in every part of their daily lives and wherever they are; to ensure that those who provide health, social care and other services understand and respect the rights of people with dementia and their carers; and to sustain the highest quality of service provision to people with dementia and their carers.

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The Charter of Rights for People with Dementia and their Carers in Scotland can be accessed at <http://www.dementiarights.org/charter-of-rights>.

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Person-centred care planning for vulnerable adults and older persons

Elsette Strachan

People, especially the vulnerable, have to be kept at centre stage in all development planning. It is thus important to understand, in practical terms, what is meant by a 'person-centred' approach in socio-economic, health care and development planning in South Africa. People-centred development planning (PCDP) is a fundamentally different way of thinking about, seeing and working with people, and especially vulnerable groups. It is a move from 'power over' relationships to a 'power with' relationship.

The following terrains of development are seen as important to making an impact on the quality of life of all people, including vulnerable adults and older persons: the economy and labour; social and health care; skills and education; housing, safety and security; and sports and recreation. Therefore no socio-economic, cultural, heritage or environmental development planning should stand alone or aim to achieve sustainable outcomes without considering the other terrains of development that impact on quality of life.

Throughout, 'valuing people' and 'personhood' should be at the centre of planning and considered in such a way that it does not derail the achievement of required outcomes. Public participation should take the form of participatory appraisal, and should not only be about telling people what is going to happen. It should always be about respect, dignity and ensuring that socio-economic health and development assessments and planning take into account what is important to people from their own perspective. Active listening and joint planning should thus form an integral part of this process.

It should be about assisting people to work out and communicate what they need. People should be put at the centre of planning, and all relevant stakeholders should be given the opportunity to become actively involved in the planning process. This approach will help create a sense of belonging and communities that take ownership and pride in assisting and developing 'their own'.

Integrating this approach into socio-economic, health care and development assessment and planning should assist with the achievement of more sustainable planning objectives, inform mitigation and support the finding of creative alternatives. It is about giving structure while focusing on development and planning outcomes, and also about mainstreaming, empowering and protecting vulner-

able groups throughout the planning and implementation process.

Socio-economic, health care and development practitioners could be instrumental in ensuring this focus, if trained appropriately. This role has, however, not been clearly defined in the South African context. Community development workers linked to the Department of Social Development, ancillary health workers linked to the Department of Health, community clinic staff and home-based carers are all people who, with the right training, could play an important role in research, data collection, risk assessments, implementation, review, monitoring and care provision for vulnerable groups. They could contribute to the sharing of information where vulnerable groups are often isolated and unable to access information and resources in the community. This could, furthermore, add to valuable skills development and accredited training, job creation and career path development for currently unemployed and/or undertrained people with an interest in making a contribution to the lives of communities and vulnerable groups.

Currently we too often look at crisis management rather than preventative development and planning. This is not cost-effective or sustainable, and leaves valuable skills and human resources underutilised. We hide behind a lack of capacity and resources. The fragmentation of services results in duplication, unhealthy competition, overlap and a waste of valuable resources.

Long and complicated procedures for funding applications and the accreditation of training courses (to name but two processes) undermine the implementation of programmes. It is often unrealistic and impossible for the most vulnerable groups in rural areas to obtain and maintain access. Policies and procedures are thought out by 'intellectuals' with little understanding and insufficient consideration of the needs of the people for whom these services are earmarked (in other words, not with the PCDP approach).

A practical example relates to day care or service centres for older persons in rural communities. These centres are required to be registered as non-profit organisations (NPOs) in order to qualify for funding from the government or other sources. Managing an NPO in a very isolated rural community with low literacy levels has proven to be very difficult. Older people in isolated rural communities are potentially the most vulnerable, with little or no access to services. Without the essential training and capacity building to enable people to perform the required financial governance, these facilities or centres are often not able

to provide the required financial statements and reports as per funding agreements. Consequently, funding is withdrawn and people left without the few services they had. A person-centred care planning approach would ensure that training needs were identified and training in financial governance provided when required. Granting funding without the necessary training and capacity building creates expectations and sets people up in an unrealistic way that leads to failure and disempowerment.

To get any of the social and health care training courses for working with vulnerable adults accredited by the Health and Welfare Sector Education and Training Authority (HWSETA) takes months, if not years, and unit standards are often not realistic or in line with the training needs of learners or the care needs of vulnerable groups. HWSETA is one of 23 statutory bodies established to facilitate skills development in the health and social development sector, and also to ensure that the skills needed in the sector are identified and addressed.

Monitoring implementation of the ICESCR

On another issue of relevance to older persons, President Zuma indicated in response to a question in Parliament on 4 May 2010 that one of the reasons for the delay in South Africa's ratifying of the International Covenant on Economic, Social and Cultural Rights of 1966 (ICESCR) was the difficulty in identifying a lead department to oversee the implementation of the ICESCR once ratified. The existing Department of Social Development might be a possible place to start. If the department were linked to the Office of the President (and, at provincial level, the offices of the premiers), it could be an umbrella department to research, review and monitor all departments with a line function responsibility for improving the quality of life of the people population. It could monitor and ensure that the emphasis was placed on mainstreaming the needs of the most vulnerable in communities by adopting a PCDP approach. Implementing this approach must be the responsibility of every line function department if we want to uphold the social, economic and cultural rights of older people and vulnerable groups.

Conclusion

I hope the few examples above have helped illustrate that integrating PCDP into social, economic, health and development systems would assist with the achievement of much more realistic, cost-effective and sustainable planning objectives and support the finding of alternatives where required. There is a need to promote person-centred social and health care and development assessments and management for vulnerable adults, older persons and the communities where they live.

● ● Granting funding without training and capacity building sets people up in an unrealistic way that leads to failure. ● ●

In order to keep people and especially vulnerable groups and older persons centre stage in all development planning, and ensure an improvement in service delivery to them and their quality of life, in line with the OPA and the South African Older Persons Charter, there is a need to

- establish a consultation transformation working group to encourage government, local community groups and organisations to incorporate community opinions and ideas in the development and transformation of services to vulnerable adults and older persons;
- consider ways to reduce the fragmentation and duplication of services;
- establish a good-practice framework for the sharing of experiences;
- review the role, training and application of social, health care and development practitioners;
- create awareness, and promote and support activities that will help ensure that the socio-economic, health care and development needs of the most vulnerable adults and older persons in communities are mainstreamed into development planning;
- shift the paradigms and actions of individuals and organisations with regard to active ageing;
- promote risk assessments and the protection of vulnerable adults and older persons against abuse;
- ensure that structures and processes are in place to profile and advocate on behalf of vulnerable adults and older persons;
- support the development of global partnerships to research, share and develop information related to the older persons sector; and
- promote and enable the development of cross-racial and cross-cultural awareness and congenial interactions among all segments of South African society.

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Forthcoming publication

A Kruger, S E Lekalakala-Mokgele and E Wentzel-Viljoen, 2011. *Rural and urban older Africans coping with HIV/AIDS are nutritionally compromised. Journal of Nutrition for the Elderly*

The paper describes the nutritional status of a group of rural and urban free-living African elderly surrogate parents caring for HIV and AIDS orphans and grandchildren. Data was collected using several methods, including anthropometry, biochemical analyses and quantitative questionnaires. The data showed that the diets of the older participants were marginal. The results suggest that being a surrogate grandparent provides a special meaning to the life of people involved that needs to be better understood. However, the diets of these older people caring for children became more compromised.

Workshop report

The workshop on the socio-economic rights of older persons, held on 22 February 2011 and hosted by the Community Law Centre at the University of the Western Cape, was attended by 45 representatives of civil society organisations, academia, research institutions, provincial parliament (Western Cape), state institutions and government departments. The workshop reviewed international and South African events and developments to draw attention to the socio-economic rights of older persons in South Africa, the challenges they face and the importance of tackling poverty in this group.

The workshop report, which contains key points that arose from the presentations and discussions, as well as the recommendations made and opportunities for promoting the socio-economic rights of older persons, can be accessed at <http://www.communitylawcentre.org.za/clc-projects/socio-economic-rights/conference>.