



## Technical Policy Briefs

# Gender and Ageing in African Contexts: Policy, Legal and Institutional Development

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**HelpAge International is a global network of organisations promoting the right of all older people to lead dignified, healthy and secure lives.**

*Gender and Ageing in African Contexts: Policy, Legal and Institutional Development*

Published by HelpAge International  
Africa Regional Office,  
P.O Box 14888-00800,  
Westlands, Nairobi  
Kenya

Telephone.: +254 0721 361608

Email: [helpage.africa@helpage.org](mailto:helpage.africa@helpage.org)

**[www.helpage.org](http://www.helpage.org)**

Registered charity no. 288180

The workshop was a result of collaboration on research and policy development between the three institutions, represented by: Professor Ann Stewart, School of Law, University of Warwick, UK; Dr Prafulla Mishra, Roseline Kihumba and Enos Omondi (HelpAge International, Africa region); and Dr Agnes Meroka, University of Nairobi, Law Faculty, Kenya, in conjunction with David Otieno, Mount Kenya Law School. It was funded by a grant from the Warwick University Global Challenges Research Fund.

The report was edited by Kathryn O'Neill

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## Policy Brief 1

### Developing a gender-inclusive, life-course perspective on ageing in African contexts

(*Transforming gender relations in an ageing world: a policy discussion paper*, Warwick Law School/HelpAge International, July 2018 extracts)

Gender equality throughout the life course is essential if all people are to flourish in older age. Ageing is becoming a key issue for international policy makers and decision makers. Barriers to achieving a good older age for all include: poor understanding of the issues; lack of wider research on the intersection between ageing and gender (despite the 'feminisation of ageing'<sup>1</sup>); and the tendency for development practitioners and policies to focus on younger age groups.

While policy makers and advocacy groups recognise that we must address intersecting inequalities, including those related to gender, inequalities associated with older age are often ignored. This policy brief starts from the perspective of those experiencing older age – older people have a right to better lives now – but reaches back into earlier life stages to ensure that future generations can flourish in older age. Gender relations must be transformed over the whole life course. This policy brief addresses issues of gender relations in older age but highlights the importance of a gendered understanding of ageing for development and humanitarian policy and advocacy.

#### Key messages

These key messages are based on global evidence combined with HelpAge International's knowledge and practice, generated by working with, through and for its network partners.

- Flourishing in older age depends on transforming gender relations over a lifetime.
- Older people have rights; they have a right to be heard: their voices are valuable.<sup>2</sup>
- Ageing intensifies the disadvantages faced by many women and can disempower men.
- Gender relations in older age will be transformed by addressing the accumulation of economic inequalities and culturally devalued identities such as race, class, ethnicity, gender identity, sexuality and disability.
- Gender informs all the United Nations Sustainable Development Goals (SDGs). Overcoming ageism is central to the implementation of the Agenda 2030 gender outcomes.
- Research on the interaction between gender and ageing is needed to address the inadequate understanding of intersecting inequalities in older age.

#### Supporting framework

In this section we introduce an analytical framework for policy and advocacy that adapts an *intersecting inequalities* approach to development policy<sup>3</sup> by adding a *life-course* perspective.<sup>4</sup> Capabilities in older age are determined by myriad intersecting inequalities – the result of economic

1 Nearly a quarter of the world's women are over the age of 50. Women live longer than men: there are approximately 80 men aged 60 and over for every 100 women. By 2025, the number of older women in Africa is expected to soar from 13 million to 46 million. 'If not addressed, the feminization of aging has the potential to become one of the biggest challenges to gender equality of this century.' See Phumzile Mlambo-Ngcuka, UN Under-Secretary-General and Executive Director, UN Women, 'Challenges Facing Older Women', 28 February 2017, <https://wunrm.com/2017/02/challenges-facing-older-women-the-feminization-of-aging/> (2 July 2019)

2 HelpAge International, Entitled to the same rights: what older women say about their rights to non-discrimination and equality, and to freedom from violence, abuse and neglect, London, HelpAge International, 2017, <http://www.helpage.org/newsroom/latest-news/older-women-speak-out-about-their-rights-in-new-helpage-international-report/> (2 July 2019)

3 Arauco V.P. et al, *Strengthening social justice to address intersecting inequalities post-2015*, London, Overseas Development Institute, 2014, <https://www.odi.org/publications/8909-strengthening-social-justice-address-intersecting-inequalities>; Kabeer N, *Can the MDGs provide a pathway to social justice? The challenge of intersecting inequalities*, Brighton, Institute of Development Studies, 2010, <https://www.ids.ac.uk/publication/can-the-mdgs-provide-a-pathway-to-social-justice-the-challenges-of-intersecting-inequalities>; Kabeer N and Santos R, 'Intersecting inequalities and the Sustainable Development Goals: insights from Brazil', *LSE International Inequalities Institute Working Paper*, London, London School of Economics and Political Science, 2017, <http://www.lse.ac.uk/International-Inequalities/Assets/Documents/Working-Papers/III-Working-Paper-14-Intersecting-inequalities-and-the-Sustainable-Development-Goals-insights-from-Brazil-Naila-Kabeer-and-Ricardo-Santos.pdf> (2 July 2019)

4 World Health Organization (WHO) and International Longevity Centre, *A life course approach to health*, Geneva, WHO, 2000, [http://www.who.int/ageing/publications/lifecourse/alc\\_lifecourse\\_training\\_en.pdf](http://www.who.int/ageing/publications/lifecourse/alc_lifecourse_training_en.pdf) (2 July 2019); See also *Special Edition of Journal of Population Ageing* Volume 9, Issue 1-2, June 2016 'Life course influences on inequalities in later life: comparative perspectives'; HelpAge International, 'What is the lifecourse approach to ageing?' <http://www.helpage.org/what-we-do/life-course-approach-to-ageing/> (2 July 2019)

processes and those associated with political, cultural, social and cultural practices, including those linked to the effects of accumulating assets and liabilities over a lifetime. We use the lens of older age to *reflect back* on the effects of the earlier life stages, which largely determine an older person's status. We also highlight the effects of ageism,<sup>5</sup> which is rife and can add to already accumulated disadvantages or undermine the advantages of those who have managed to accumulate assets.

Throughout our lives we make decisions about how we want to live but some of us have more choice than others. Despite our efforts over a lifetime, some of us arrive at older age with very few economic, social and cultural assets to call upon. This may be because we have experienced war, conflict or devastating natural disaster; because we were born into a poor family or into a community that is discriminated against (for instance, because of caste, religion or ethnicity); or because we are born with or acquire an impairment. Gender-based inequalities can start from before we are born and continue over a lifetime. Our lives do not necessarily proceed in neat stages but rather in a fluid and dynamic manner. For example, impairments can interact with social, cultural and economic determinants and environmental aspects across the life course, resulting in differing outcomes for men and women.<sup>6</sup> The commonly held assumption that older people are genderless or asexual often prevents gender being considered as an issue in older age. To combat this ageist notion, it is vital to remember that the effects of gendered processes do not stop when people reach older age.

Figure A1 is a dynamic representation of older age as the accumulation of events and processes over a lifetime. Five life stages are highlighted (in blue) before older age is secured. All involve social relations (highlighted in green) which influence the accumulation of social assets, shaping older lives. The outer, productive circle (highlighted in purple) includes social reproduction as well as economic productivity. Both forms may extend into childhood and shape liabilities in older age.

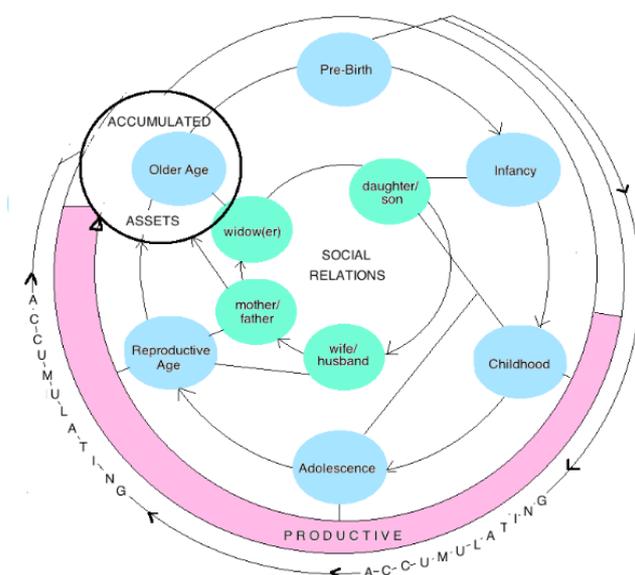


Figure A1: Accumulating assets/ liabilities over the life course

The economic, social and cultural assets and liabilities of every older person are accumulated over time, from pre-birth through what are regarded as reproductive and productive ages.<sup>7</sup>

**Gender sensitisation** seeks to enable older women and men equally to 'be and do what they have reason to value'.<sup>8</sup> It is a lens primarily applied to projects and interventions focused on older people themselves. It seeks to *mitigate* the accumulated adverse effects on women and men of a gendered life course. **Being sensitive to gender issues in older age does not address the gender-based power relations that operate throughout the life course.**

A **gender-sensitive lens** must be complemented by a **gender transformative** approach to *all stages of the life course*. Without diluting the primary remit of age-focused organisations, advocacy must also influence international and national policy development and global frameworks by adding a gendered ageing lens to interventions that focus on earlier life-course stages.<sup>9</sup> **Gender-sensitive**

<sup>5</sup> 'Ageism' is stereotyping and discrimination against individuals or groups on the basis of their age; it can take many forms, including prejudicial attitudes, discriminatory practices, or institutional policies and practices that perpetuate stereotypical beliefs (WHO, *World report on ageing and health*, Geneva, WHO, 2015); see also WHO, 'Voices of older adults on ageism': <https://www.youtube.com/watch?v=7sQTqLgFVaE> (2 July 2019)

<sup>6</sup> We recognise that gendered processes are far more complex beyond the binary of men and women, often differentially affecting lesbian, gay, bisexual, trans, questioning and intersex (LGBTQI) communities. As noted in this brief, gender identities and sexualities can be culturally devalued and discriminated against, contributing to the production of intersecting inequalities. There is an insufficient research base at present on ageing, gender identities and sexualities. More research in this area is urgently needed to inform advocacy and programming.

<sup>7</sup> Production relates to undertaking paid work. Reproduction here is understood as biological process rather than 'social reproduction', which includes the provision of the sexual, emotional and affective services required to maintain family/intimate relationships, unpaid production in the home and reproduction of culture, which stabilises social relations. See Hoskyns C and Rai SM, 'Recasting the international political economy: counting women's unpaid work', *New Political Economy* 12(3), 2007, pp. 297–317

<sup>8</sup> World Health Organization, *World health report on ageing and health*, Geneva, WHO, 2015

<sup>9</sup> For example, advocacy for changing gender norms and redistributing caring responsibilities between men and women in younger generations will positively impact the health and wealth of women as they age, because they will have more opportunities to acquire economic assets over their lifetime on a more equal basis with their male peers. Men will also benefit as they get older from having been more involved in social reproduction and the social assets and bonds that such engagement produces.

and **gender-transformative** approaches overlap and intersect; a gender-transformative life-course approach exposes the wider and enduring economic and social impact of such practices, and adds an age-inclusive perspective to gender-based advocacy.

**Sustainable Development Goals: Using SDG 5 to produce a gender-transformative agenda for ageing**

The global phenomenon of longevity is a triumph of humanity – but it is also a global challenge for the SDGs. These goals connect directly to a vision of a world in which all older people can lead dignified, healthy and secure lives. While gender equality is an explicit goal, ageing is addressed within individual goals. Age-focused organisations are now recognising the intersection between gender and ageing, but there is much to be done to engage the wider policy community on this.

**Figure A2: A gendered life-course approach to implementing the SDGs**



**Figure A2: To be gender-transformative across the entire life course, the equality goal must address the intersection between ageing and gender within and across all goals**

The SDGs reflect a growing understanding of the need to tackle intersecting inequalities. The processes that create or reinforce gender inequalities are increasingly recognised. Many of the individual goals are also expressed explicitly or implicitly in age-inclusive terminology.<sup>10</sup> For example:

- **5.1 Target** End all forms of discrimination against *all* women and girls everywhere
- **5.C Target** Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of *all* women and girls at all levels

While the framing of these targets and indicators emphasises ‘all’ women and girls, implicitly including older women, a coherent life-course perspective is generally lacking. Interventions overwhelmingly focus on the early and biologically reproductive stages of girls’ and women’s lives and on the economically productive stages for men (and, increasingly, women). The impact of the accumulated effects of, and interaction between, socially reproductive responsibilities and productive activities on older people are not as well recognised. The later stages of the life course are not addressed, despite the impact of age-specific impairments and conditions, and discrimination (ageism), at that stage.

Gender advocacy, rooted in SDG 5 but applied to all goals, needs to develop a life-course perspective to ensure that human development discourse and practice is age-inclusive and gender-transformative. *The SDGs will only be effective if data is collected and disaggregated across the life course, ideally in*

10 HelpAge International, *Agenda 2030: The Sustainable Development Goals and global ageing*, Discussion Paper, London, HelpAge International, 2017, <http://ageafrica.net/wp-content/uploads/HelpAge-Agenda2030-LowRes.pdf> (2 July 2019)

5-year (but at least 10-year) age cohorts to provide the basis for gender-transformative, age-inclusive research and project design.

More research and policy interventions are needed, both to understand and tackle the accumulated effects of gendered processes in later life and to inform policy development, project design and advocacy strategies that focus on the earlier stages of life.<sup>11</sup>

Legal frameworks must ensure, at a minimum, that the rights of older women in particular are fully addressed in gender equality provisions but also that such frameworks recognise the accumulated and continuing effects of discrimination and *the additional impact of ageism*. Examples include:

- discriminatory pension laws and policies (not valuing/accounting for women's lifetime of unpaid/informal care work)
- particular and discriminatory age limits on access to services (eg, health screening programmes; credit)
- compulsory and discriminatory retirement ages<sup>12</sup>
- denial of rights to service provision (eg, to sexual and reproductive health services<sup>13</sup>)

## Recommendations<sup>14</sup>

1. Address the structural causes of income insecurity in older age by creating opportunities for older men and women to participate in income-generating activities, as well as universal access to social pension schemes.
2. Ensure that women can own and inherit land and property and can use these assets to access credit across all stages of the life course, and address the implications of changing land use and ownership on older women.
3. Work with organisations that address labour rights and protections (both in the formal and informal sectors) to protect the rights of women workers of all ages and to abolish discriminatory practices such as unequal pay for equal work.
4. Encourage more equitable distribution of caring responsibilities within the family and community.
5. Address the limitations that caring responsibilities place on older women in securing an income through productive work, and tackle discriminatory practices that nudge or force older women out of employment.
6. Recognise and mitigate the lack of social capital men may have accumulated over the life course, potentially impacting their chances of being cared for by their families in older age.
7. Design more sensitive research methods to ascertain how care responsibilities are distributed.
8. Use a *gender-transformative approach* to address the *whole life course* to ensure maximum functional ability, independence and wellbeing in older age, irrespective of health status.
9. Recognise and resource the vital role that environments play in supporting healthy ageing.
10. Advocate for gender-supportive environments which *remain important* in older age to complement *gender-sensitive programme delivery* on health and care for older women and men.
11. Commission more action research to pilot new types of interventions and services on violence, abuse and neglect –, particularly how ageism can lead to violence and interact with other harmful processes and norms that sustain gender-based violence and gender-based discrimination, driving specific types of violence.
12. Commission research to underpin gender-sensitive humanitarian programming and gender-transformative planning and advocacy.
13. Listen to and amplify the voices of older men and women in humanitarian contexts.

<sup>11</sup> In March 2018, the United Nations Statistical Commission agreed to establish the Titchfield City Group on ageing-related statistics and disaggregated data. HelpAge International has been a founding partner in this initiative, together with the Department for International Development (DFID), multilaterals and statistical offices. The purpose of the group is to systematically address data gaps on ageing and older people in national and international data systems.

<sup>12</sup> Older men and women can be discriminated against through unjustified compulsory retirement policies or being forced to retire early. For example, in Kenya, forced early retirement has been recently contested in the courts in Kenya University Staff Union & another v Masinde Muliro University of Science and Technology (2018), see: <http://kenyalaw.org/caselaw/cases/view/152388/> (2 July 2019)

<sup>13</sup> SDG 5.6.1 Indicator: Proportion of women aged 15-49 years who make their own informed decisions regarding sexual relations, contraceptive use and reproductive healthcare.

<sup>14</sup> The full recommendations are available in the original briefing paper from HelpAge International/Warwick University. This represents a shortened list.

## **Conclusion**

We recommend that our framework and supporting evidence be disseminated to provide a better understanding for international NGOs, national and local governments – and, indeed, for older people themselves – of how gender and ageing intersect.

At a **strategic level**, we recommend that **governments adopt legal and policy frameworks to ensure gender equality throughout the life course and that funding bodies prioritise research on older age from a gender perspective**. At an **operational level**, we recommend that practitioners and researchers: (1) disaggregate data collection at all levels to inform research and policy development; and (2) pursue gender-sensitive and age-inclusive programming to inform *gender-transformative advocacy for the whole life course*.

## Policy Brief 2

# Are legal and policy frameworks informed by an understanding of 'age' and 'care' in African plural legal systems?

The steady increase in the population of older people in sub-Saharan Africa – estimated at 43 million in 2010 and rising to 67 million by 2025<sup>15</sup> – has been the driving force behind regional efforts to pass laws to protect older persons' rights. The African Union (AU), recognising how various axes of vulnerability intersect with each other, has made provisions for the unique experiences of older persons with disabilities and older women.<sup>16</sup>

At the international level, there is recognition of the need to build inclusive societies and that national governments need support to achieve this. To this end, the United Nations (UN) adopted the 1982 International Plan of Action on Ageing, which later informed the UN Principles for Older Persons in 1991 and the UN Proclamation on Ageing in 1992. In 2002, the UN adopted the Madrid International Plan of Action on Ageing. There is, however, no international convention on ageing; this gap at the international level is reflected in some national contexts, with few specific provisions on the protection of older persons' rights.

The SDGs' commitment to 'leave no one behind' provides a platform for the inclusion of older persons in development agendas. However, implementation will require national governments to put in place measures that protect, respect, guarantee and promote the rights of all older persons.

This policy brief analyses the opportunities set out under the African regional legislative frameworks on ageing, and how these can help fill gaps identified in three national contexts: Kenya, Ethiopia and Malawi.

### **Outline of the policy brief**

Following the efforts that have been made at the regional level, it is clear that there has been traction in the protection of the rights of older persons. It is however important to analyse the extent to which these regional provisions have impacted the way in which the rights of older persons are protected at the national level. This paper discusses the mechanisms that have been put in place by the African union, outlines the efforts that have been at the national level in three countries: Kenya, Malawi and Ethiopia, comparing the gaps that exist between national level initiatives and those at the regional level.

### **Key questions**

1. What are the regional provisions on the rights of older persons in Africa?
2. How do these provisions relate to provisions on the rights of women and the rights of persons with disabilities in Africa?
3. How do the national and devolved frameworks in Kenya, Ethiopia and Malawi provide for the rights of older persons?
4. How do national and devolved frameworks in Kenya, Ethiopia and Malawi address questions of intersectionality?
5. What is the relationship between the SDGs and the regional and national frameworks on the rights of older persons?

### **Legal framework for the recognition and protection of older persons in Africa**

#### **• The African Charter on Human and Peoples' Rights (1981)**

Article 18 of the African Charter (known as the Banjul Charter) provides for the protection of the family as the natural unit and basis of society. Article 18(2) further imposes a duty upon the state to assist the family, and emphasises that the family is the custodian of morals and traditional values recognised by the community. Article 18(4) provides that the aged and persons with disabilities have the right to special measures of protection in keeping with their physical and moral needs.

<sup>15</sup> World Health Organization Regional Office for Africa, 'Ageing', <https://www.afro.who.int/health-topics/ageing>

<sup>16</sup> Ibid.

- **The African Union Policy Framework and Plan of Action on Ageing (2002)**

Recognises that while it is assumed that in traditional African contexts older persons are entitled to respect, this is not always the case. Older persons in Africa face various forms of abuse and discrimination. The policy calls for the passing of legislative frameworks at the regional and national levels to protect the rights of older persons and for the elimination of all forms of discrimination on the basis of age. At the regional level, it recommended passing the Additional Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa. The policy further calls for a standardised definition of older persons (recommending aged 60 years and older). Also recommends integrating the needs of older persons into already existing policies of member states.

- **African Union Kigali Declaration on Human Rights (2003)**

Paragraph 20 calls on member states to adopt a protocol for the protection of the rights of older people and persons with disabilities. Re-affirms the position that the rights of older persons in Africa is a human rights issue that requires responses through appropriate legislative frameworks.

- **Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa (2016)**

The protocol comprehensively provides for the recognition and protection of the rights of older persons. It prohibits discrimination against older persons and requires states to take measures to: encourage the elimination of cultural and social stereotypes that marginalise older persons; take corrective measures in those areas where discrimination and all forms of stigmatisation against older persons continue to exist (in law and in practice); and support and enforce local, national, regional, continental and international customs, traditions and initiatives to eradicate all forms of discrimination against older persons.

The specific rights covered under the protocol include: access to justice and equal protection before the law; right to make decisions; protection against discrimination in employment; social protection; protection from abuse and harmful traditional practices; protection of older women; care and support; residential care; support for older persons taking care of vulnerable children; protection of older persons with disabilities; protection of older persons in conflict and disaster situations; access to health services; access to education; participation in programmes and recreational activities; accessibility; awareness on ageing and preparation for old age.

Article 20 provides for duties and is informed by African traditional systems and conceptions of the role of older people in society. It thus recognises that older persons have the duty to: mentor and pass on knowledge and experience to the younger generations; foster and facilitate intergenerational dialogue and solidarity within their families and communities; and play a role in mediation and conflict resolution.

The protocol mirrors the reasoning in the Banjul Charter on the role of the family in providing care for older persons, and the need for the state to support families in providing such care. Article 10 provides that States Parties shall: adopt policies and legislation that provide incentives to family members who provide home care for older persons; and identify, promote and strengthen traditional support systems to enhance the ability of families and communities to care for older family members. Thus, the family is seen as the core unit within which care is to be provided, and the protocol imposes a duty upon the State to support the family. This, however, does not preclude residential care; States Parties are required to provide this as an option under Article 11.

Article 12 recognises the unique position of older persons in Africa who provide care to vulnerable children, within the context of the family. States Parties are required to adopt measures to ensure that indigent older persons who take care of orphans and vulnerable children receive financial, material and other support; and ensure that when children are left in the care of older persons, any social or other benefits designed for the children are remitted to the older persons. Here, the protocol provides for the protection of the vulnerable older person who then has to care for a vulnerable young child, thus recognising the existence of a family unit that is characterised by distinct forms of vulnerability.

## **National frameworks for the recognition and protection of older persons**

### **Kenya**

The Ministry of Labour and Social Protection is mandated to deal with older persons' issues. The National Gender and Equality Commission is also mandated to address inequality and discrimination against vulnerable categories of persons, including older persons. The national statutory and institutional framework is fragmented, with no single piece of legislation harmonising the range of provisions for older persons currently housed under the Social Assistance Act, National Social Security Fund Act, National Hospital Insurance Fund Act and the Pensions Act. Much of the existing legislation on ageing is limited to labour, employment and retirement.

The Constitution is informed by the 2009 National Policy on Older Persons and Ageing, whose goal is "... to provide an environment that recognizes, empowers, and facilitates Older Persons to participate in the society and enjoy their rights, freedoms and live in dignity". To this end, it recognises that the care of older persons is the responsibility of both the family and the state; that participation by older persons in development processes is important; and that there is a need to protect, respect, promote and guarantee the rights of older persons.

Article 27 prohibits discrimination on the basis of age (although the emphasis is on children and youth). Ironically, this is evidenced in the Constitution itself, where provisions relating to age target children or youth (aged 18 to 35 years).

Article 57 adds further protections, and emphasises the role of the family in providing care. However, there are fewer provisions for older persons than for women or persons with disabilities (for example, in terms of representation of their issues in Parliament or other decision making bodies).

Although Kenya is subject to the provisions of the Banjul Charter (by dint of Articles 2(5) and (6)), it is not yet a party to the Protocol on the Rights of Older Persons in Africa.

At present, Kenya's Constitution and various statutes address issues of gender and disability but do not take into account the intersecting nature of vulnerability and inequality (for instance, provisions on gender do not make further provisions for older women, while provisions on disability do not make further provisions for older persons with disabilities).

### **Ethiopia**

Section 41(5) of Ethiopia's Constitution stipulates that "*the State shall, within available means, allocate resources to provide rehabilitation and assistance to the physically and mentally disabled, the aged, and to children who are left without parents or guardian*".

The 1996 Development Social Welfare Policy was the first step towards a policy framework that makes provisions on ageing in Ethiopia. The National Plan of Action on Older Persons (1998–2007) was adopted in 2006. It recognises and protects the rights of older persons and their inclusion in development processes. The Plan also recognises that care for older persons is mainly provided by the family, and recognises community care as an integral part of caring for older persons. In 2012, the National Social Protection Policy was adopted to provide support to vulnerable groups, including older persons.

### **Malawi**

Section 13(j) of the Constitution stipulates that "*The State shall actively promote the welfare and development of the people of Malawi by progressively adopting and implementing policies and legislation aimed at achieving the following goals: To respect and support the elderly through the provision of community services and to encourage participation in the life of the community.*"

The National Policy for Older Persons, adopted in 2016, aims to ensure the inclusion of older persons in development processes and provides for the protection, promotion, respect and guarantee of older persons' rights. It further recognises the need to support families and communities in caring for older persons. The Ministry of Disability and Elderly Affairs is mandated to ensure implementation of the policy.

## **Intersectionality under the African Union legislative framework**

The AU's legislative framework recognise that the intersections between age, gender and disability shape and inform the unique experiences of older women and older persons with disabilities, and makes provisions that respond to those intersecting identities.

Article 22 of the Maputo Protocol (the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa) obliges States Parties to provide protection to older women and take specific measures commensurate with their physical, economic and social needs as well as their access to employment and professional training; and to ensure the right of older women to freedom from violence, including sexual abuse, discrimination based on age, and the right to be treated with dignity. This provision is further reinforced by Article 9 of the Protocol on the Rights of Older Persons in Africa, which provides that States Parties shall: ensure the protection of the rights of older women from violence, sexual abuse and discrimination based on gender; put in place legislation and other measures that guarantee protection of older women against abuses related to property and land rights; and adopt appropriate legislation to protect older women's inheritance rights.

Article 13 of the Protocol on the Rights of Persons with Disabilities in Africa provides that States Parties shall: adopt legislation and other measures to protect the rights of older persons with disabilities; ensure that such legislation and measures comply with regional and international standards; and ensure that older persons with disabilities have access to assistive devices and specialised care. Article 30 provides for the recognition and protection of the rights of older persons with disabilities on an equal basis with other older persons. This wording suggests that disability introduces another dimension of vulnerability that can lead to forms of discrimination that may not necessarily be experienced on the basis of old age only. Article 30 further makes reference to older women with disabilities, requiring States Parties to take into account age and gender-related aspects of disability in programming and resourcing. The protocol thus recognises that age, gender and disability can represent intersecting vulnerabilities.

## **Gaps in knowledge and further questions**

- How can the state and the market support families to ensure adequate care for older persons?
- What is the role of the family, the state and the market in ensuring the inclusion of older persons in development?
- How do customary norms support, promote or impede the provision of care for older persons within the family?

## **Recommendations**

National policy makers should:

- Ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa and promulgate national legislation mirroring its provisions.
- Develop suitable supervisory/monitoring mechanisms and develop legal expertise and access to support so that older people can challenge discrimination and advocate for their rights.
- Implement awareness-raising programmes on family, community and state duties and responsibilities to older people to ensure that ageism does not affect planning or service provision, and develop a framework to monitor and evaluate progress.
- Clarify, within national policy, the role of lower levels of government in supporting families and communities to care for older persons.
- Develop a curriculum on tackling age discrimination/ageism in schools and universities and develop suitable materials for use in training.

## **Conclusion**

Laws plays an important role in protecting human rights, thus through the adoption of the AU Protocol on the Rights of Older Persons in Africa, much has already been achieved. The focus now shifts to ratification of the Protocol, which will ensure that it comes into force. Further, national legislation to implement the Protocol throughout the region is also important.

## Policy Brief 3

# Caring and ageing under customary law in Africa

Despite progress in developing and adapting laws, policies and programmes to address older people's needs and uphold their rights, in many countries and contexts in Africa, older people still rely on customary law to guarantee their wellbeing. In many rural settings, care has traditionally been provided on the basis of clan and family, in line with their respective customary laws. However, customary law can also be an obstacle to the provision of care and can essentially exclude certain categories of older persons from receiving care. It is against this background that this policy brief highlights some of the salient issues in customary protection and care for older persons in Africa, by addressing some key questions.

### **How does culture construct 'elderly' or older people, and how does this affect the provision of care?**

Generally, older persons are defined as individuals who have attained advanced age (the WHO and the Kenyan Constitution define them as persons above 60 years).<sup>17</sup> However, cultural perceptions do not seem to use age; rather, they consider physical vulnerability and functional incapacity as determinants of old age. Having grandchildren, sons-in-law or daughters-in-law is sometimes considered as a sign of old age and therefore confers that status.

The level of care conferred on older people increases over time, depending on the level of physical incapacity. So considerations of what constitutes an older person under customary law and formal law are very different. In some cases, conditions associated with old age (such as dementia) may be considered outcomes of evil spirits associated with what a person may have done (or not done) in the past. Accordingly, families are often unwilling to take such older persons to hospital and prefer to use traditional forms of medicine.<sup>18</sup> This category of older people may, in essence, be classed as mentally unstable, and therefore confined to the home, subjected to cultural prescribed means of handling mental health problems or illnesses.

On the other hand, older people are essentially a socially constructed group – individuals who other than being of advanced aged are considered to possess wisdom and or high social status, and thus consulted on personal and communal matters. Many play a central role in dispute resolution at the family, clan and community levels. At the same time, older people are often associated with traditional medicine and witchcraft factors that influence their wellbeing. For instance, an elder who is associated with witchcraft is generally feared and ostracised and receives significantly less communal sympathy and support if they become infirm. In some instances, such elders are killed or blamed for the challenges that face the community, family or clan.

The distinction between older people and elders often means that older people who are considered as elders receive more care than older people who are not elders. First, this is because they are perceived as being more valuable and therefore worthy of more protection. The role of physical and mental ill health or frailty in the social construction of 'older people' and its implications for care requires further exploration and discussion. However, since more older men are essentially considered as 'elders' compared to older women, there is more care available for older men than older women. This is partly because older women retain the gendered caring obligations that come with marriage and thus have to continue caring for their husbands even in old age. Men in polygamous marriages also receive much more care compared to women in such unions.

### **To what extent does culture tap into family structures to guarantee care?**

Generally speaking, care is provided at the family level, typically through clan or family structures;<sup>19</sup> the closer the family member to the older person, the stronger the obligation to provide care. Since marriage unites two families, it essentially creates two sets of care obligations. For instance, upon marriage, the woman is assumed to have joined the man's family and therefore has a caring obligation both to her parents and family and to her in-laws. The husband and wife have different obligations to

<sup>17</sup> See Article 260 of the Constitution of Kenya, see also WHO, <https://www.who.int/news-room/fact-sheets/detail/ageing-and-health>. For detailed discussions on the understanding of ageing across regions and cultures, see <https://www.who.int/healthinfo/survey/ageingdefnolder/en/>

<sup>18</sup> See Uwakwe R and Modebe I, 'Community and family care responses for persons with dementia in Eastern Nigeria', *Global Ageing: Issues & Action* 4:3, 2007, pp.35-43

<sup>19</sup> Lombard A and Kruger E, 'Older persons: the case of South Africa', *Ageing International* 34, 2009, p.119

each other's parents. For instance, a married woman would be living far from her parents and therefore expected to provide physical care for her parents only sporadically, though her and her husband would be expected to provide material care (such as money) regularly. However, the married woman would be expected to provide regular physical care to the man's parents, especially his mother. Similarly, the man would be expected to provide material care to his wife's parents and provide physical care for his father. Within the wider family, family care is perceived as a reciprocal phenomenon in which family members provide free care in anticipation of receiving free care if and when they need it.<sup>20</sup> Failing to provide care often lowers a person's status in the family and may essentially compromise the provision of care for that person should he/she become old and vulnerable or in need of care.

### **To what extent does culture exclude some older people from care?**

In one way, culture creates an obligation for family and clan members to care for older persons. Caring for older people is therefore seen as an obligation on the entire clan rather than the responsibility of the individual's children or of government. The social construction of fatherhood, motherhood, sons and daughters often creates a wide network of people with a primary obligation for care but who can draw support from other family members. For instance, in many communities, 'a father' goes beyond the biological father to include father figures – the brothers of the biological father. Similarly, a 'mother' can range from the biological mother to the sisters of the biological mother to (sometimes) the wives of 'uncles'. An obligation on a child to care for a father or mother therefore stretches to the socially constructed father/ mother. Since care is partially tied to capacity under customary law, in situations where children are unable to provide care, the obligation usually transfers to other family members.

However, it should be noted that customary law constructs care in two ways: material care (which includes food, payment of bills, shelter, clothing, etc.); and physical care (which involves bathing, washing clothes, feeding, administering medication, and providing mobility support). While customary law can also act as a barrier to the provision of both types of care, there seem to be more barriers on providing physical care than material care. For instance, in many communities, custom dictates that an older person can accept payment of medical bills or other monetary benefits from any member of society or family. At the same time, many communities are not very restrictive as to who can build a house for the older person. However, physical care is much more restricted, and often linked to gender (for example, it may not be deemed acceptable for daughters to bathe their fathers just as sons may not bathe their mothers). Sons-in-law face similar restrictions on providing physical care to their mother-in-law and father-in-law.

Culture can also account for resistance to institutionalised care for an older person. Although globally, the question of institutionalised care for older persons is generally controversial, African culture is generally resistant to institutionalised care – first, because institutionalised care is seen to translocate older persons from their natural habitat, and second, because older persons are seen to have a customary attachment to ancestral land. There is thus a need to explore how African societies can tap into institutionalised care in a way that does not promote cultural resistance, given that traditional family and clan systems may no longer have the capacity to guarantee care for older persons.

Whereas in many communities it is deemed acceptable for daughters-in-law – considered as an additional hand for caring duties – to bathe mothers-in-law, they cannot bathe fathers-in-law. Some communities (such as the Kipsigis of Kenya) confer the responsibility for bathing older people to the children and grandchildren of corresponding genders. Within this context, older people without children/grandchildren are often excluded from physical care. To fill this gap, some people resort to woman-to-woman marriages, traditional adoption of children, or physical relocation to the home of a relative. Similarly, failure by the older person to fulfil certain rituals upon the death of a spouse can militate against that person receiving care, as it would restrict people from closely interacting with the older person. For instance, among the Luo of Kenya, Uganda and Tanzania, failure by a widow to "get inherited"<sup>21</sup> after the death of the husband bars her from entering the house of any clan member, essentially limiting her ability to receive care. Such failures to fulfil customary obligations have different care implications for widows and widowers, depending on the local cultural context.

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<sup>20</sup> Ibid

<sup>21</sup> Wife inheritance is a common practice among the Luo. When a man dies, his wife is taken on by his brothers, another clan member or another man in the community. The practice is considered to allow for continuity of the deceased man's lineage and provide protection and means of living for the widow. However, it has also been criticised for commodification of widows and for encouraging the spread of HIV, among other issues.

Urbanisation and migration mean that many people live in cities and towns so are not able to look after their parents in older age.<sup>22</sup> One option is to move one's parents to the city. However, customary law often places restrictions on living spaces, including sometimes barring in-laws from living with their sons and daughters in the same rooms, so relocation is sometimes not possible or desirable for parents or children. This means that only wealthy families with bigger living spaces can physically relocate their older parents. Many older people are unwilling to relocate as they believe they have a customary obligation to care for ancestral lands.<sup>23</sup>

The links between care and fulfilment of customary obligations often place older people in a dilemma. For instance, for some older people, their faith rejects some customary rituals associated with the death of a spouse or child, yet this can limit their interaction with other members of the community, thus compromising their care entitlements. Within this context, the older person is forced to choose between forfeiting their freedom of religion (faith) and fulfilling their customary duties (which entitle them to care), or rejecting customary rituals and waiving their care entitlements.

### **The disruption of traditional family structures and the implication for care**

It is noteworthy that traditionally, care was not paid for. Family members would often care for older people, first as part of their cultural obligation and appreciation for the care they received as children, and second, because they anticipated blessings or some form of intangible benefits from caring for the person.<sup>24</sup> This care was typically provided by family members who lived nearby the older person. However, over time, family structures have changed and young people increasingly live far from their home village and older family members. As already noted, urbanisation has left many older persons physically and socially isolated, with few (if any) people close by to provide care. In some instances, the only people living near are other older people who are also in need of care. In addition, in many countries, the average family size has reduced, which means a smaller pool of potential carers, as opposed to the past, when polygamy and larger families meant that there were always children nearby to care for older people in need. At the same time, the emergence of single-parent families, co-parenting and other modern family forms has contributed to the erosion of traditional family structures and thus compromised care.

Epidemics such as HIV have also had an impact, with many older people losing their grown-up children to AIDS,<sup>25</sup> which leaves them vulnerable on two counts: first, losing their primary caregivers means they are often reliant on more distant family members; and second, they often have to care for their orphaned grandchildren – a particularly difficult task for people who themselves need care. Even when such individuals receive cash transfers or pensions, customary sharing requirements mean these resources must be shared with the orphaned children and other vulnerable family members.<sup>26</sup> The fact that grandparents (especially grandmothers) often have the customary obligation to care for children born outside wedlock (by their daughters until and unless they are married) equally puts strains on their meagre income. These realities have altered the customary construction of older people from being receivers of care to providers of care.

Although older persons in rural and urban areas face significant health, economic and social challenges, older persons in urban slums – far from the social protection provided by customary law – can be most vulnerable, particularly if they left their home for reasons that would make it difficult for them to be accepted upon their return.<sup>27</sup>

### **Recommendations**

Although formal law defines and constructs older persons differently, there is a need to re-examine how customary law constructs old age, not only to ensure that programmes are aligned to customary conceptions of old age but also to tap into the customary and social infrastructure that anchors the provision of care. This process must start with analysis of the various care processes available at community level and how they can be strengthened. There is also a need to explore how customary obstacles to care can be addressed within the wider framework of protections for older persons. Within this context, state and non-state actors should seek to strengthen those aspects of culture that promote care for older people while discouraging aspects that exclude and militate against care.

22 Schatz E and Seeley J, 'Gender, ageing and care work in East and Southern Africa: a review', *Global Public Health* 10:10, 2015, pp.1185-1200

23 See Nyangweso M, 'Transformations of care of the aged among Africans – a study of the Kenyan situation', *Ageing & Mental Health* 2:3, 1998, pp.181-185

24 Mbele J, 'The elder in African society: the view from folklore and literature', *Journal of Intergenerational Relationships* 2:3/4, 2004, pp.53-61

25 Douglass R, 'The aging of Africa: challenges to African development', *African Journal of Food, Agriculture, Nutrition and Development* 16:1, 2016, pp.1-15

26 See Lombard and Kruger, 'Older persons: the case of South Africa', *Ageing International* 34:3, 2009, p.119

27 See Sykes J, 'Persistent realities', *Global Ageing: Issues & Action* 4:3, 2007, pp.3-4

### **Knowledge gaps and key questions**

- How does the social construction of 'age', 'ageing', 'old' and 'elderly' impact on care? To what extent does it compromise the wellbeing of the older person?
- How can the state tap into customary structures of care for older persons?
- How does customary law exclude older persons from care and how can custodians of customary law such as elders either reinforce and/or address this?
- How should caregiving for older people in Africa be structured? Should the state be the primary caregiver, supported by families, or should families be the primary caregivers, drawing support from the state? What implications does this construction have on the actual delivery of care in view of the customary obstacles?
- To what extent is institutionalised care a viable option in the protection of older persons in Africa?
- How can the state partner with local customary structures to provide care for older people in view of HIV and modern family systems, and other factors that have disrupted traditional care structures?
- How do customary obligations to share resources impact on cash transfer and pension programmes for older persons? How do older people respond to these obligations? Do they share the resources? What is the implication of this on the ability of cash transfers/pensions to meet older people's needs?
- How can the wellbeing of older people be guaranteed in view of their roles in caring for children orphaned by HIV and for children born outside wedlock? What are the gendered dimensions of care for older people in this context?

## Policy Brief 4

# The role of older people in shaping age-friendly legal and policy frameworks

### Overview of the issue

Africa is experiencing a more rapid increase of older people than any other region. The number of older persons aged 60 years and above is projected to increase from 69 million in 2017 to 226 million in 2050.<sup>28</sup> Despite this change of population age structure, laws, policies and programmes about and for older people have not been modified to cope with older people's longevity, capacity and complex vulnerabilities. As a result, many older people are subject to ageism and majority live in poverty or extreme poverty. They experience barriers in accessing basic and humanitarian services like healthcare, education, justice, legal and financial services, and information. This is despite human rights<sup>29</sup> being universal and unchanged across the life course.

On a positive note, however, a substantial number of African countries continue to adopt and roll out national policies on ageing with visible assigned budgets.<sup>30</sup> A few countries<sup>31</sup> have established special organisations or included ageing within the remit of a particular ministry. Increasingly, African countries are mainstreaming older people in social protection policies (mainly through social pensions or cash transfers), health, and HIV policies. Current priorities for global and regional development<sup>32</sup> focus on prosperity, dignity and rights of people of all ages through commitments on equality and non-discrimination, human rights, and 'leave no one behind'. Despite these progressive commitments, minimal age-friendly policies, programmes, services and budget allocations have been reported.

Inadequate technical capacity among policy makers on ageing and older people, coupled with inadequate evidence and data, are among the biggest barriers to integrating older people's needs and rights in laws, policies and programmes. Simultaneously, many older people lack an understanding of their rights and entitlements, how government works, and the role and spaces for citizen participation in public policy making processes. Limited supportive structures to create an effective social accountability platform result in weak demand for action on ageing and make it difficult to hold duty-bearers to account.

Older people in both rural and urban settings continue to be marginalised and excluded in legal, policy and programmatic frameworks, resulting in difficulties in accessing appropriate services and participation in public policy processes. Older people face discrimination based on older age and other intersecting forms of discrimination such as physical ability, gender, and geographical location (among others).

However, there are many opportunities to ensure appropriate age-friendly legal, policy and programmatic frameworks to safeguard the rights of people across the life course, including into older age. Participation and creation of effective social accountability, led by older people, is urgently needed. However, older people need to know their rights and the implication of these rights for public policy processes to engage policy makers to respond to the needs and issues facing an ageing population.

This policy brief highlights successes, challenges and gaps across the region and beyond on the role of older people in advancing age-friendly legal, policy and programmatic frameworks. It also provides insights into some of the factors that act as catalysts for including older people in legal, policy and programmatic frameworks.

Despite some recognition and awareness of the challenges and issues facing older people, there continues to be a significant gap in knowledge and understanding. The complex causes of discrimination and marginalisation of older people – often based on ageism, intersecting identities and inequalities such as gender, disability and income – require more research and engagement with older people at all levels to ensure their effective inclusion.

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<sup>28</sup> UNDESA, World population ageing 2017, New York, UNDESA, 2017

<sup>29</sup> Universal Declaration of Human Rights and African Charter on Human and Peoples' Rights

<sup>30</sup> HelpAge International, *Ageing in the twenty-first century: A Celebration and A Challenge*, UNFPA/HelpAge International, 2012

<sup>31</sup> Cameroon, Ethiopia, Kenya, Malawi, Mozambique, Senegal, South Africa, Tunisia and Uganda

<sup>32</sup> Sustainable Development Goals and Agenda 2063

## Key questions

This policy brief highlights key factors that empower older people at all levels to engage effectively in public policy processes. Capacity and coordination of older people and their supporting organisations, effective utilisation of citizen and civil society engagement spaces, and consolidating relevant partnership relationships and collaborations are some of the areas discussed to show transformative interventions to promote the rights of older people.

The brief addresses the following questions:

- What are the critical factors that influence power dynamics to enable older people's voices to bring about policy change to protect their rights and ensure inclusion?
- What are the roles and responsibilities of older people's organisations in developing, adopting, implementing, monitoring and reporting on laws and policies?
- Why are partnership and collaboration important in promoting inclusive laws, policies and programmes?
- How do gender dimensions impact the participation of older people?

## What are the critical factors that influence power dynamics to enable older people's voices to bring about legal and policy change to uphold their rights and ensure inclusion?

- **Capacity for civil society to maintain sustained engagement with older people and policy makers**

Civil society organisations (CSOs) are key to building capacity for social accountability and amplifying the voice of older people in decision making processes at all levels. Capacity-building activities have focused on establishing older people's associations, empowering older people with information and knowledge on their rights and entitlements, facilitating regular dialogue between older people and policy makers through sustained campaigns, and enabling older people's effective participation in decision making processes.

There have been numerous campaigns to demand older people's inclusion in laws, policies, programmes and services, including: Grandmothers to Grandmothers,<sup>33</sup> Ageing Equal,<sup>34</sup> AgeWithRights,<sup>35</sup> Ageism,<sup>36</sup> and Age Demand Action.<sup>37</sup> These campaigns have resulted in increasing support among UN Member States for a new convention on the rights of older people, as well as improved national ageing policies and age-friendly services.

- **Older people's capacity to engage**

In countries and communities where older people have been empowered on their rights and entitlements, realise their constitutional rights to participation, have a coordinated movement that effectively engages decision making processes, and undertake sustained campaigns, there have been notable positive changes in policies, programmes and services in favour of older persons. Special groups of older people have been empowered with specific skills on activism, alongside older citizen monitoring groups and older people's champions. As a result, older people have gained confidence to speak out and demand that their issues be addressed by local government and the international community.

For instance, the Grandmothers to Grandmothers campaign in Uganda (led by grandmothers) has pushed for older people to be included in HIV and AIDS policies and programmes, to increase the benefits to orphans under their care, and for age-inclusive social protection mechanisms (including a universal pension). Older people have taken part in key national, regional and international forums such as the Commission on the Status of Women, the United Nations Open-Ended Working Group on Ageing, and the Post-2015 SDGs process.

- **Government's willingness and capacity to engage**

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33 <http://grandmotherscampaign.org/>

34 <https://www.grandmagazine.com/2018/10/ageing-equal-international/>

35 <https://www.chr.up.ac.za/campaigns/agewithrights-campaign>

36 <https://www.who.int/ageing/ageism/campaign/en/>

37 <https://www.helpage.org/get-involved/campaign-with-us/ada-global/>

Countries with a high proportion of older people such as Mauritius and South Africa continue strengthening and modifying laws, policies and programmatic frameworks without much pressure from older people and supporting organisation. Countries with institutional coordination mechanisms for ageing (Mauritius, Uganda and Seychelles) have shown a steady improvement of legal and policy environment for older people. For example in Uganda, the established National Older People Council, a structure that runs from national level to local level has increased representation of older people in government decision-making structures and has increased integration of older people in public policy making processes. In South Africa, according to North-West University research, municipalities that perform better on older people's wellbeing, are those with dedicated units that facilitate a coordinated multisector approach with civil society, involving intergenerational dialogue, translating policies into programmes, and making deliberate efforts in developing tailor made ageing activities<sup>38</sup>.

In Rwanda organizations of older people have brokered relationships with government and used the existing 'Omuganda'<sup>39</sup> government structures and processes. Since 2017, September Omuganda activities are dedicated to older people and their issues, prompting the government to accelerate policy and programmatic changes in favour of older people. A draft national ageing and older people policy is in place and about to be tabled to the cabinet for adoption. At the same time, Rwanda now shows positive interest in regional and global discourse on strengthening legal and policy frameworks on ageing. South Africa and Mauritius openly support a new convention for the rights of older persons. Attitudes and practices of society and policy makers towards older people have changed positively.

Challenges on resources particularly finance, technical and a shortage of human resource personnel in ministries are major barriers to coordination and inclusion of older people in national and sector specific processes. Additionally, limited evidence and data continue to hinder necessary legal and policy changes and positioning of older people in sustainable national development frameworks and debates. Further, the in-adequate voice of older people to demand for action on their issues, slows the progress countries are making on ageing and rights of older people.

- **Ageism and harmful practices**

Ageism is widely tolerated resulting to negative perceptions and attitudes towards old age and older people. It is rarely challenged. In many parts of Africa, older people are accused of witchcraft because of age and gender stereotypes are common. Many older people have been forced out of their homes or even murdered. In Tanzania for instance, the Legal and Human Rights Centre reported 394 cases of killings of older persons due to witchcraft allegations in 2016, of whom 70% were older women<sup>40</sup>. Ageism results to discrimination, neglect, abuse and violence on older people as well their exclusion in policies and programmes.

Ageism is a contributory factor to the violations of rights that older women and men experience at the family, community and institutional levels. Older people experience multiple forms of discrimination because of accumulated inequalities during their life. The intersectionality of age with disability, ethnic origin, location of residence, literacy levels, gender, and poverty at different life stages can lead to high levels of poverty, discrimination, abuse and marginalisation in old age.<sup>41</sup> Older people's rights to access resources such as property and services such as social protection, healthcare, justice, equality before the law, and the rights to housing, privacy and a private life continue unabated. Age is a barrier to employment, with many countries forcing older people to retire at the age of 60 despite their continuing capability for full employment or failing to provide reskilling programmes. Older women may be more affected because they live longer.

CSOs and older people have worked with national and international organisations to build anti-ageism campaigns to begin to reduce some of these negative perceptions and replace them with positive perceptions of ageing and old age. This will give older persons equal chances with other population groups to participate fully in society.

### **What are the roles and responsibilities of older people's organisations in the development, adoption, implementation, monitoring and reporting on laws and policy?**

There is a growing number of organisations and coalitions supporting older people at all levels, which are amplifying the voice of older people to pressure duty-bearers to take action on ageing. Older people and their organisations are more active at subnational, national, subregional, regional and

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<sup>39</sup> Government-led community initiative where citizens help each other once every month across the country

<sup>40</sup> Tanzania Gender Networking Programme Gender Analysis report, 2015

international debates. There is increased awareness of ageing and older people's issues and rights, including improving legal, policy and programmatic actions on ageing. Some are highlighted below.

- Efforts to empower older people to actively participate and strengthen their voices. The learning on effective social accountability needs to be documented and shared for scale-up to ensure just and equitable access to services and eradication of age-based and other forms of discrimination.<sup>42</sup> The region has witnessed an expansion of social protection programmes and age-friendly services such as healthcare, social protection and cash transfers, and accelerated their inclusion in sustainable and national development frameworks.
- Developing training modules for specialised skills such as activism, older citizen monitoring, paralegals, and ambassadors who continue to promote the voices of older people and/or collect data that has developed compelling messages for campaigns and advocacy. The Global Alliance for the Rights of Older People (GAROP), Grandmothers to Grandmothers, and HelpAge Network have all played an important role.
- Designing and delivering campaigns driven by older people. Ageing Equal and Ageism campaigns have facilitated a sustained interaction between older people and policy makers, resulting in positive changes (countries and stakeholders engaged in UN convention discussions have accelerated the development and adoption of national ageing policies and legal frameworks).
- Building the capacity of policy makers on the rights and entitlements of older people, with technical support to governments, intergovernmental organisations and UN systems on legal, policy and programmatic frameworks for older people but also on inclusion of older people in wider humanitarian and development debates. Older people's organisations have financed or co-designed national and intergovernmental laws, policies and programmes. HelpAge Ghana has supported the development of ageing policy and legal frameworks, while Africa Population and Health Research Center has provided technical support to design the Monitoring and Evaluation (M&E) Framework for the AU Protocol on the Rights of Older People, with financial support from HelpAge.
- Designing and delivering high-level engagements through participation in government and civil society lead forums on processes relating to older people, including sustainable development, national development and humanitarian processes.
- Designing and delivering research and knowledge products to guide policy reform and support evidence-based programming, advocacy and policy-influencing strategies.
- Developing partnerships in resource mobilisation, including research, advocacy and campaigns.

However, many of the platforms and organisations are not well-positioned in key formal and informal government and civil society-led sustainable and national development processes. Humanitarian and human rights forums have minimal representation of older people and their organisations. There is an urgent need to address this to ensure older people's inclusion in multiple policy processes.

### **Why partnership and collaboration is important in promoting inclusive laws, policies and programmes**

Partnership relationship-building for collaborative ventures continues to play a critical role in accelerating the institutionalisation of standalone ageing and older people policies as well as mainstreaming ageing and older people in laws, policies and programmes. These collaborative partnerships have brokered and shared expertise and undertaken high-level advocacy and policy-influencing activities, which has improved understanding on ageing and older people and advancement of age-sensitive laws, policies and programmes. Partnerships and collaboration have been useful in the following ways.

- Facilitating the empowerment of older people and consolidating older people's associations to augment the voice of older people and enable their participation in public policy processes. This has created demand for action on ageing. Through GAROP, the alliance partners have provided training for activists and facilitated older people to undertake advocacy and lobbying to end ageism and support a UN convention on the rights of older people.
- Mainstreaming older people across sectors and increasing their visibility within other population groups (such as older people with disabilities, and older women) to inform actions and national planning processes. The Africa Population and Health Research Center has collaborated with governments, UN bodies and civil society to improve data and evidence on urban issues, health and social protection. The Centre for Human Rights (University of Pretoria) has been promoting intergenerational dialogue and the AU Protocol on the Rights of Older People to ensure that its

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<sup>42</sup> HelpAge International, *Ageways*, Issue 84, July 2016

advocacy and policy-influencing work covers older women. It has also facilitated dialogues between students and older people to encourage intergenerational collaboration, while encouraging university students to undertake research on older people.

While these initiatives have resulted in increased awareness on ageing and older people and recognition of multiple vulnerabilities, lack of capacity on how to mainstream ageing in disability and gender discussions and/or ensuring ageing and older people interventions reflect the disability and gender lens continue to be a major barrier to realising the rights of older people with multiple vulnerabilities.

- Development of standalone laws, policies and programmatic frameworks at all levels. HelpAge Ghana, a HelpAge network member in Ghana has over the years partnered with the Government of Ghana to improve the stand-alone age frameworks. So far, ageing and older people policy was approved in 2010 and the legal framework has been validated and being prepared to be tabled in the parliament.
- Collaboration among civil society, academia and governments has promoted a progressive integration of older people in frameworks and human resources development to address the wide range of older persons' needs and issues. For instance, the universities of Southampton and Oxford have collaborated with civil society and government institutions across Africa on research, and offers funded Master's and PhD programmes (gerontology, ageing and public policy).

While these initiatives have increased awareness on ageing and older people's intersecting vulnerabilities, lack of capacity on mainstreaming ageing in disability and gender discussions and/or ensuring that interventions on ageing and older people adopt a disability and gender lens continue to be major barriers to realising the rights of older people with multiple vulnerabilities.

### **How do gender dimensions influence participation of older people?**

The gender dimensions of older people's participation in decision making processes are not well-documented so would need further research.<sup>43</sup> However, anecdotal accounts reveal that across the life course, women are likely to be disadvantaged in a number of areas: they are more likely than men to be poor, experience violence, have low literacy and numeracy, and acquire a disability, and are less likely to be financially secure and access social protection and healthcare. This, coupled with household and family care responsibilities, reduces women's time and ability to participate in decision making processes and denies them opportunity to take up leadership roles in their communities and countries.

There is a need to empower and promote older women's participation in decision making, including drafting, planning, implementing and monitoring gender-sensitive laws, policies, plans and strategies to ensure that women are at the forefront of decisions that affect their lives.

### **Recommendations**

To continue the progress made thus far in involving older people in shaping laws, policies and programming, stakeholders should:

- Improve capacity-building for older people, the organisations that represent them, and policy makers on older people's issues and rights, and involve older people in the design and implementation of legal, policy and programmatic frameworks. Scale up older people's involvement in public policy formulation and data collection in all geographical areas to strengthen social accountability.
- Collect and synthesise compelling evidence on the situation of older people to enhance action and policy making on ageing and older people's rights.
- Accelerate the development, adoption and implementation of a UN convention on the rights of older people, and promote ratification and implementation of regional and national legal and policy frameworks for older people.
- Improve understanding of intersecting inequalities and develop technical competencies to ensure that ageing issues are mainstreamed in gender and disability processes and/or that ageing actions are sensitive to gender and disability.
- Strengthen partnerships and collaborative ventures, to focus on strategy, clarifying roles and responsibilities, improving coordination among government agencies and NGOs, and addressing the shortage of skilled staff and inadequate budget allocations.

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43 Stewart A and Lander J, *Transforming gender relations in an ageing world*, London and Warwick, HelpAge International/Warwick University, 2019

### **Knowledge gaps and key questions for future research**

There is a lack of skills and knowledge on how to apply a life-course perspective and promote the inclusion of older people in gender and disability frameworks, including sustainable development and national development frameworks. There is also a lack of understanding of how human rights treaties apply to older people, which acts as a barrier to older people's inclusion in political, economic, social and cultural spheres.

Few governments and development partners use a human rights-based and non-discriminatory approach or have adopted a life-course perspective that addresses the range of vulnerabilities, inequalities and exclusion (leaving no one behind) that people experience. More work is needed with all sectorial and sustainable development stakeholders at all levels to uphold human rights and adopt a life-course approach to ensure that older people – as all other people – enjoy their freedom, rights and entitlements.

#### **Key questions**

- How can sufficient political will be generated to accelerate the development, adaption, ratification, implementation and monitoring of legal and policy frameworks on ageing and older people's rights, at all levels?
- What would it take to have policy makers invest more efforts on older people's issues and rights?

### **Conclusion**

Despite some recognition and awareness of the challenges and issues facing older people, there continues to be a significant gap in knowledge and understanding. The complex causes of discrimination and marginalisation of older people – typically based on ageism, intersecting identities and inequalities such as gender, disability and income – highlight the need for more research and engagement with older people at all levels to ensure their effective inclusion so that they can play a key role in shaping the laws, policies, services and programmes that affect their lives.



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P.O Box 14888-00800,  
Westlands, Nairobi  
Kenya.

Tel.:+254 721 361 608

Email: [helpage.africa@helpage.org](mailto:helpage.africa@helpage.org)  
**[www.helpage.org](http://www.helpage.org)**

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