

## **AARP – UN DESA Meeting**

**United Nations Independent Expert on the Question of Human Rights and Extreme Poverty.**

**Magdalena Sepúlveda Carmona**

**3 February 2010**

**[CHECK AGAINST DELIVERY]**

---

I would like to thank the organizers for inviting me. It is a pleasure for me to speak at this meeting. As mentioned, I am the United Nations Independent Expert on the question of human rights and extreme poverty. In this capacity, my message today is this: we must look at the situation of the poverty of older people as a grave human rights concern. My proposal is very straightforward: we need to invest in protecting older people because it is a human rights obligation. In this regard, I will speak about the importance of non-contributory pensions in reducing poverty at old age and enabling developing countries to comply with their international human rights obligations.

Today more than ever, the lives of the great majority of older people around the world, particularly in developing countries, are threatened by the lack of food and access to health care and the risk of disease and precarious living conditions. They experience violence of all types, along with discrimination, harassment and humiliation, often only because they are old and poor. This situation constitutes a non-compliance with several human rights standards.

Yet, the poverty of older people is not always treated as a human rights issue. In fact, it is often seen as something that is just tragic and inevitable, a simple fact of life, especially in the poorer developing countries. When older people die of hunger or when they have no access to medical services, we still tend to blame nameless economic or “developmental” forces or the simple inevitability of human deprivation.

A human rights approach to poverty calls for a paradigm shift in how we see and address poverty. This paradigm shift suggests that poverty should not be viewed simply as an inevitable eventuality and nor should the blame be placed on the poor.

It seeks to identify when poverty is created by human actions or omissions or by wrong policy choices, rather than by nameless economic forces. A human rights approach views poverty not as a question of fate, but rather as an issue of justice. It demands that we reject the view that in developing countries, poverty in old age is inevitable, and rather that we look at why poverty persists among older people.

With a human rights approach, we must demand States and other actors to take measures to immediately address this situation and request accountability for actions or omissions that produce, perpetuate and exacerbate poverty among older people.

From this stand point, I will argue that ensuring access to social protection for older people is not an optional policy choice or a gesture of charity, but an obligation enshrined in international human rights law.

### **The human rights framework and social protection**

I will focus my presentation on the need to establish and expand non-contributory pensions, also called “social pensions”, as a crucial step to realizing the human rights of older persons, in particular in developing countries. By using the term “social pensions”, I am referring to a regular non-contributory cash transfer to older people.

Establishing or extending non-contributory pensions in developing countries not only can have a significant impact on reducing poverty but it is also a duty that flows directly from human rights, in particular the right to social security and the right to an adequate standard of living. Both of these rights are enshrined in the Universal Declaration on Human Rights (UDHR) and in several international treaties and ILO conventions, in particular Convention No. 102 on Minimum Standards of Social Security.

Contributory pensions schemes are not sufficient when large proportions of the population are outside the formal employment sector and when traditional informal support systems

for older people are changing under the pressure of widespread poverty, the impact of HIV/AIDS and migration. Women, rather than men are more likely to suffer the consequences of this lack of family support. Across developing countries, more women than men live alone. Because women live longer than men, without a social pension, they are more likely to spend more years as dependents in poor households with increasing risks of exclusion. Under these circumstances, non-contributory pensions can be seen as an essential component of a comprehensive social protection package designed to protect poor children, men and women across their lives.

Non-contributory pensions not only play a significant role in poverty alleviation efforts but they can also contribute to States' fulfilment of their human rights obligations in regard to older people, in particular those related to the right to social security, the right to an adequate standard of living including food and housing, the right to the highest attainable standard of physical and mental health, the right to take part in the conduct of public affairs and the principle of equality between men and women.

Evidence shows that even a small cash transfer to older people has a significant impact in their lives. A regular and predictable payment enables them to improve their standard of living; they can afford to eat regular meals, pay for treatment and medicines especially in situations where public health services are non-existent or inaccessible.

Social pensions also help to reduce gender imbalances. Women have less opportunity for formal employment because of gender discrimination and lower education levels. Women are more likely to work in the informal sector, doing low-paid, part-time and irregular jobs. They undertake the same physically demanding work as men but for less pay. Women are also less likely to benefit from any pension schemes in their own right in societies where the stereotype of the "male bread-winner/female care-giver" dominates policy-making.

The provision of cash transfers to older people contributes greatly to improvements of standards of living across generations. As evidence from Brazil and South Africa shows, in households headed by a pensioner, the nutritional status of children and the general health of all household members improve and attendance records in school increase.

Social pensions also improve family cohesion and the status of older people in the family. They are seen as a valuable family member rather than a burden.

Additionally, pensions have wider economic benefits: a stable income also enables poor households to access credits, to take risks and stimulate the local economy. Social pensions, like other social protection programmes, can act as stabilizers in times of economic turbulences. This means that they can cushion the most vulnerable against the impact of economic downturns while guaranteeing a certain level of aggregate demand and in turn contributing to limiting the impact of recessions.

But this is more than just a question of economics, of promoting growth and development. Overall, social pensions play a great role in enhancing the protection of the human rights of older persons. They restore a sense of security and dignity in older people who do not want to be dependent on others.

The duty to implement social protection policies such as social pensions to address poverty flows directly from human rights obligations. This means that ensuring access to social protection is not a policy option, it is an obligation placed upon States for their populations.

Several developing countries around the world have already implemented these types of programmes: in Africa, Botswana, Mauritius, Namibia, Senegal and South Africa operate large scale social pensions systems. The schemes in Senegal and South Africa are means-tested. In Latin America and the Caribbean, Antigua and Bolivia offer a universal social pension. Means-tested programmes are present in Argentina, Brazil, Chile, Costa Rica, Dominica, Mexico and Uruguay. In Asia, Bangladesh and India provide a means-tested pension, while in Nepal there is a universal social pension scheme.

However, it is also important to look at the other side of the coin. While social pensions may be a crucial tool that can assist States in fulfilling their obligations under international human rights law, if human rights norms and principles are not taken into account in the design, implementation and monitoring of these programmes, the programmes are rendered weak and inconsistent with human rights obligations.

Social pension should be seen as only one component of a broad social protection system designed to tackle the multidimensional aspects of poverty. The focus on older persons should consist in setting basic, non-contributory pensions as one of the pillars of a comprehensive approach including measures to ensure access to basic services (especially health services).

In order to contribute to the realization of human rights, social pensions should be designed and implemented in ways that ensure that they comply with core human rights obligations as established in major human rights treaties.

Briefly, the main human rights challenges in implementing social pension are:

1. Ensuring that the design and implementation of the programmes comply with the general human rights principles of (a) equality and non-discrimination; (b) accountability, (c) transparency, (d) access to information and (d) participation by older people.
2. Establishing an adequate legal and institutional framework. This is essential to define who the duty-bearers are and who the rights-holders are, to make participation of beneficiaries in decision-making possible, and to define mechanisms to evaluate and ensure transparency and accountability. There must be a clear allocation of responsibilities and a precise time-frame for the implementation of necessary measures.
3. The strategy must give particular attention to the prevention and elimination of discrimination in access to the programmes. Social pensions must be physically and culturally accessible to all older people. This means that outreach and information on social pensions must be specifically designed to reach the poorest segments of society (e.g. radio announcements, talk shows, community plays, etc.). Outreach must also overcome cultural barriers (e.g. by making information available in languages used by minorities and indigenous peoples). Accessibility also requires removing administrative barriers that may have a disproportionate impact on the extremely poor, such as requiring identification documents for registration when such documents are costly or are required in countries where many people are not registered at birth. Human rights obligations require that such documents must be easily accessible and free or affordable for the poor.

4. Means-tested vs. universal pensions. Non-contributory pensions (financed from general taxation) can be means-tested or universal. In this regard, a universal pension would be more consistent with human rights obligations.

Means-tested pensions are more difficult for poor people to access. In Bangladesh, the social pension scheme is aimed to reach 5% of the total poor people but only 1 in 10 of eligible candidates can access the pension with only 40% of the beneficiaries in the poorest quintile.

When social programmes are means-tested, women are often excluded. The ability to have access to the programme often replicates power structures and women are less able to influence decisions-making processes.

A universal pension scheme is more in line with human rights obligations as: (a) it responds to the claim of universality of human rights norms, (b) it complies with the principle of equality and non-discrimination, (c) it reduces opportunities for corruption, and (d) there is no stigma attached as it is available to all who comply with the age requirement. In addition, universal provision is the simplest structure with the lowest administrative costs. Several low-income countries provide universal pensions, such as Botswana, Namibia, Bolivia and Nepal.

Universal pensions are also more gender sensitive. They recognize the contributions that women make as care-givers. As it is very simple to qualify, access cannot be manipulated by local elites to the detriment of women. Since there are more older women than men, women as a group benefit more from universal pensions. In developing countries, universal pensions are the only means by which most women in developing countries are guaranteed income at old age.

Universal pensions are also critical in countries with high HIV prevalence and where parents migrate leaving grandparents to care for children.

Nonetheless, we must admit that sometimes resource constraints force the implementation of more reduced schemes. Although means-testing is an interesting method which might be seen as way of reaching the poorest, from a human rights perspective, caution is required. Means-testing involves a method of wealth calculation

that requires more sophisticated administration systems and which may lead to exclusion errors that are discriminatory. Moreover, the more complicated the method of calculation is, the more opaque the eligibility criteria becomes: this may render scrutiny of the process by beneficiaries difficult, if not impossible. As the process becomes less transparent it becomes more difficult for individuals to access the programme.

When the programme is universal, targeting often involves errors: some of the poor may be excluded and some of the non-poor may be included. From a human rights perspective inclusion errors (providing the benefit to someone who is not in the target group) and exclusion errors (failure to provide the transfer to those targeted) do not have the same significance. Exclusion errors are much more serious.

In conclusion, let me finalize by saying that poverty in old age is not an inevitable fact of life. There are several measures that States must take to provide protection to older people to prevent them from falling into poverty or to overcome poverty. Under international human rights law, there are a range of measures that states must take to ensure the fulfilment of obligations that they have voluntarily assumed, such as those related to the right to an adequate standard of living and the right to social security.

From the various policy choices available to states, universal non-contributory pensions must be seen as one policy option that when inserted in a broader social protection strategy and designed and implemented taking into account human rights norms, may greatly contribute to reducing poverty and to realizing the human rights for older people.