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UNIVERSAL PERIODIC REVIEW

THEME: RIGHTS OF OLDER PERSONS AND SOCIAL PROTECTION

**SUBMITTED BY; MANGU INTEGRATED COMMUNITY
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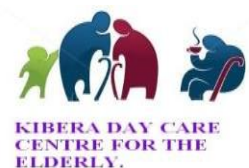
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THEMATIC CLUSTER: GROUP RIGHTS

SUB THEME: OLDER PERSONS AND SOCIAL PROTECTION

ISSUES: AGEING AND OLDER PERSONS' RIGHTS

1.0 BACKGROUND AND INTRODUCTION

1. Older people in Kenya experience difficulties in accessing basic services such as health and care services, property rights, mobility, justice, and livelihood opportunities. Inadequate data on older people has been a great setback in supporting the inclusion of older people in national and county development frameworks in all spheres of social-cultural, economic and political life ensuring equality and inclusion of every member of society regardless of their age, gender and abilities is paramount for prosperity. To this end, this report aims to highlight challenges faced by older persons and recommended actions by the Kenya Government.
2. The number of older persons in Kenya 60 years and above is expected to increase from 2.2 million (4.5% of the population) to 5.5 million (9.6% of the population by 2050. The legal, policy and programmatic environment need urgent modification to cope with older people's longevity, capacity, and complex vulnerabilities.ⁱ This report cites the progress made by the Government of Kenya on issues related to older persons and social protection. We have also highlighted several challenges faced by older persons in Kenya, their causes and effects, and the recommendations forwarded by older persons in the grassroots.
3. There are several international Treaties, the Constitution of Kenya, national Statutes and policies that relate to older persons. These include the Universal Declaration of Human Rights (UN, 1948), Article 25(1) stipulates that everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including housing and necessary social services.ⁱⁱ The United Nations Principles for Older Persons of 1991; The United Nations Proclamation on Ageing of 1992; The International Labour Organization (ILO) Convention No. 102 of 1952 concerning Minimum Standards of Social Security, Convention No. 128 and Recommendations 131 of 1967 on Invalidity, Old Age and Survivors' Benefits, Recommendation No. 162 of 1980 concerning Older Workers, and Convention No. 157 concerning Maintenance of Social Security Rights of 1982; The Madrid Plan of Action on Ageing (MIPAA) of 2002.
4. The Constitution of Kenya (2010) under Article 57, obligates the State to take measures to ensure Older Persons' participation, personal development, dignity, respect and protection from abuse; and together with the family, the obligation to provide care and reasonable assistance to Older Persons. The Constitution of Kenya (2010) under the Bill of Rights Article 43 provides that every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care; to accessible and adequate housing, and to reasonable standards of sanitation; to be free from hunger, and to have adequate food of acceptable quality; to clean and safe water in adequate quantities; to social security; and to education. Further, the Constitution also provides that the State shall provide appropriate social security to persons who are unable to support themselves and their dependents. The Constitution obligates the State to address the issues of the vulnerable groups in society and specifically it commits in Article 57 to take measures to ensure the

- right of older persons to fully participate in the affairs of the society, pursue their personal development, to live in dignity and respect and free from abuse and to receive reasonable care and assistance from their families and State.
5. With regard to Policies, there is The National Housing Policy Sessional Paper No. 3 of 2016 provides for the progressive realization of the right to accessible and adequate housing and reasonable standards of sanitation for every person. The National Policy on Older Persons and Ageing (2018) provides an environment that recognizes, empowers, and facilitates Older Persons to participate in the society and enjoy their rights, freedoms and live-in dignity. The Kenya Social Protection Policy (2023) provides a framework to enhance social protection through income security, social health protection, shock responsive and complementary programmes to the vulnerable members of the society including older persons.
 6. Currently, the proportion of older persons is estimated at 6% of the country's total population. According to the 2019 National Census Report the population of older persons in Kenya was 2,740,515 against a population of 47,564,296 while only less than 1% of the population is receiving cash transfer. Statistics indicate that about six people face violence every month on suspicion of being witches in Gusii Land.ⁱⁱⁱ At least 20 elderly persons in the county get killed in a month on claims that they are practicing witchcraft.^{iv} The Government has on-boarded an additional 500,000 Older Persons into **the** INUA JAMII program during the current Financial Year 2023/2024. This will increase the number of Older Persons beneficiaries under the cash transfer programme to 1,379,075. This reflects an 88.12% increase.
 7. The Government of Kenya has made progress in improving the lives of older persons. The Government of Kenya through the Ministry of Labour, Social Protection and Senior Citizens Affairs has drafted the older persons and ageing awareness booklet and Older Persons Bill 2024 undergoing the debate process. The Government of Kenya has taken steps to ratify the AU Protocol on the rights of older persons. The Government together with Stakeholders is in the process of finalizing the Sensitization Booklet on the Rights of Older Persons and Ageing. During registration of potential older persons, mobilization is done at the grassroots level and sensitization to the community members. This gives the older persons an opportunity to participate during the meetings and share experiences with each other, hence creating more awareness. The Government has heled commemoration of UN International Days. In this regard, the Government and non-state actors involve the older persons and the general public in planning and actual commemoration of the International Day of Older Persons (IDOP) and the World Elder Abuse Awareness Day (WEAAD).
 8. During the 3rd UPR cycle review in January 2020, the State of Kenya received the following recommendation related to Older Persons and Social Protection. Under 6.21, Kenya was asked to "Complete the process of ratifying the Protocols to the African Charter on Human and Peoples' Rights on the rights of the elderly in Africa and the rights of people with disabilities in Africa" (Mali). Under Recommendation 6.59, the State was asked to "Take the necessary measures to ensure access to basic health care, education, food, and other social care systems, on a fair basis and in line with the principle of non-discrimination" (Kuwait). Under Recommendation 6.65, the Government should "Continue to promote economic, social development and improve the living standard of its people" (China). Under recommendation 6.192, the Government should "Continue consolidating social

protection programs in favor of its population, in particular for the most vulnerable sectors (Bolivarian Republic of Venezuela). Under recommendation 6.196, the Government should “Continue the measures necessary to extend access to health insurance and quality health services for all citizens without discrimination” (Djibouti). Under recommendation 6.199, the Government of Kenya was asked to “Continue to protect and promote the right to health for all, through strengthening Universal Health Coverage” (Japan). Under recommendation 6.203, the Government should “Take concrete legal and policy measures, including the provision of adequate human rights training to health personnel, to eliminate all forms of stigma and discrimination in health settings” (Portugal). Finally, under recommendation 6.210 the Government should “Continue to strengthen its successful educational and health policies, in order to provide the greatest possible well-being to its people” (Bolivarian Republic of Venezuela).

2.0 ISSUE ANALYSIS AND RECOMMENDATIONS

ISSUE 1: OLDER PERSONS ARE BEING KILLED ESPECIALLY IN COUNTIES OF KILIFI, KISII AND OTHER AREAS OF KENYA ON ACCUSATION OF WITCHCRAFT AND BASED ON AGE

9. On 17th October 2021, four elderly women from Mokona Village, Marani Ward in Kisii County were lynched on allegations of being witches.^v The Kenya National Commission on Human Rights presented a document to the United Nations in February 2023 stating: “Witch burning, killings, and physical attacks are rife in regions such as Kisii in western Kenya and Kilifi County in coastal Kenya.”^{vi} This may be attributed to by the defunct Witchcraft Act (Cap 67) of Kenya, though no longer directly enforceable, plays a complex and somewhat paradoxical role in the elderly killings in Kenya. Historically people in Kilifi do not have land documentation. The only document they have is the narrative from these elderly people. That is why mostly men are being killed, because once you kill them, then you have removed the obstacle.^{vii} This leads to shattered families, fear, poverty, forced eviction and distrust within communities which affect the welfare, health, life and dignity of older persons, particularly older women. Older women, and in some cases older men have faced social exclusion, victimization and a repeat of heinous acts against the surviving families. This has led to slow economic growth, unproductive, destruction of property, forced migration, homelessness, poverty, and conflicts among community members.

Recommendation

The Government of Kenya should take sustainable measures to prohibit all forms of ageism and discrimination against older persons everywhere.

ISSUE 2: INADEQUATE NATIONAL LEGISLATIVE FRAMEWORK ON OLDER PERSONS TO OPERATIONALIZE THE RIGHTS OF OLDER PERSONS AS PROVIDED FOR UNDER ARTICLE 57 OF THE CONSTITUTION

10. There is insufficient prioritization of older persons' rights within the government's agenda due to lack

of political goodwill. In addition, there is inadequate allocation of resources to implement and enforce the existing legal framework. This leads to older persons face a number of particular challenges in the enjoyment of their human rights. Stereotyping, stigmatization and marginalization are widespread and grounded in assumptions about the lack of ability, frailty and need of protection as individuals grow older leading to discrimination, exclusion and constraints on the legal capacity, autonomy and independent living of older persons, and aggravate other inequalities.

Recommendation

The Government of Kenya should consider fast tracking the enactment of the Older Persons bill 2024 and Social Protection Bill 2023.

ISSUE 3: OLDER PERSONS HAVE LIMITED ACCESSIBILITY TO SERVICES AND INFRASTRUCTURE WHICH IMPEDES THE MOBILITY, ACCESS TO ESSENTIAL SERVICES AND REDUCES SOCIAL INTERACTION OF OLDER PERSONS

11. There is insufficient development of accessible transportation systems, public spaces, and buildings. In addition, there is low understanding of the importance of accessibility for older persons among planners and architects. This leads to inaccessibility to infrastructure and transport services increases tendencies of older persons delaying seeking services including health services due to fear of falls, getting lost and elder abuse. It increases isolation and loneliness and compromises the older persons health and well being

Recommendation

The Kenya Government should take measures to develop and encourage universal design in order to ensure that Older Persons have access to infrastructure, including buildings and public transport.

ISSUE 4: OLDER PERSONS WITH DISABILITIES FACE A NUMBER OF OBSTACLES INCLUDING ATTITUDINAL, ENVIRONMENTAL AND INSTITUTIONAL BARRIERS

12. Older persons with disabilities often remain invisible due to a lack of consistent and systematic data collection as well as social perceptions and taboos. Prevention, protection, accountability and remedy mechanisms are not sufficiently developed and accessible to ensure protection and redress. These obstacles prevent their full and equal participation in all aspects of life and it can increase the number and severity of falls and make it harder for older adults to go out and visit with friends and family and continue doing their activities independently. Older adults who lose their mobility have higher rates of disease, disability, hospitalization, and death; and have poorer quality of life.

Recommendation

The Government should take steps to ensure that Older Persons with disabilities have access to

assistive devices and specialized care, which respond to their needs within their communities.

ISSUE 5: MANY OLDER PERSONS ARE HAVING DIFFICULTIES USING DIGITAL TOOLS AND SERVICES, HINDERING ACCESS TO INFORMATION AND RESOURCES

13. Digital Divide: Economic disparities that limit access to smartphones, computers, and internet connectivity. Insufficient training programs to teach older persons how to use digital tools effectively. With regard to Ageism, there are many stereotypes and discrimination that discourage older persons from adopting new technologies. This leads to limited access to technology marginalizes older persons who may not have access to smartphones, internet connectivity, finances or the technical skills for the effective use of digital platforms.

Recommendation

The Government of Kenya should take steps to provide opportunities for Older Persons to have access to education and to acquire ICT skills.

ISSUE 6: LACK OF DISAGGREGATED DATA ON OLDER PERSONS MAKES IT DIFFICULT TO DESIGN AND IMPLEMENT APPROPRIATE PROGRAMMES FOR OLDER PERSONS

14. Limited research and data collection on the specific needs and challenges faced by older persons, fragmentation of data across different government agencies and organizations. Insufficient analysis of existing data to inform policy decisions and program development. Older persons appear to be viewed as a residual category thus justifying their exclusion in data systems. This leads to lack of disaggregated data on older persons and ageing renders older persons invisible and increases inequality in service provision and resources thus increasing the possibility of vulnerability among older persons and their families.

Recommendation

The Government of Kenya should ensure the systematic collection and analysis of national data on Older Persons and develop a national mechanism on ageing with responsibility to assess, monitor, evaluate and coordinate the integration and implementation of Older Persons' rights in national policies, strategies and legislation.

ISSUE 7: LACK OF DISAGGREGATED DATA ON OLDER PERSONS MAKES IT DIFFICULT TO DESIGN AND IMPLEMENT APPROPRIATE PROGRAMMES FOR OLDER PERSONS

15. Retirees in Kenya face challenges in accessing their pensions, often involving lengthy delays, bureaucratic hurdles, and potential underpayment. This is caused by bureaucratic Delays: Inefficient and time-consuming procedures for processing pension claims. In addition, many forms of corruption

delay or prevent older persons from receiving their retirement benefits. This leads to the processing of pensions of retirement benefits takes too long causing hardship among retirees and their families.

Recommendation

The Government of Kenya should fast track the processing of the Pension Amendment Bill 2022 to ensure that persons who retire from their employment are provided with adequate pensions and other forms of social security in a dignified and decentralized manner.

The Government of Kenya should take steps to provide opportunities for Older Persons to have access to education and to acquire ICT skills.

ISSUE 8: MANY OLDER PERSONS IN KENYA HAVE REPORTED THAT THEY ARE FACING DIFFICULTIES ACCESSING THE NEEDED CARE BECAUSE OF LACK OF SOCIAL INSURANCE COVER AND TREATMENT COST

16. Kenya lacks adequate long-term care public insurance schemes for older people and access to private health insurance is too prohibitive due to high cost and punitive medical examinations. This leads to some uninsured older persons have said they delayed or did not get a needed prescription drug due to cost and older people without health coverage are less likely than those with coverage to obtain all the recommended screening and treatment services and they have an increased risk of being diagnosed at later stages of diseases, including cancer, and have higher mortality rates than those with insurance and they may not have a regular place to go when they are sick or need medical advice, while the majority of insured people do have a regular source of care.

Recommendation

The Government should guarantee the rights of Older Persons to access health insurance and services that meet their specific needs.

ⁱⁱ https://www.ohchr.org/sites/default/files/UDHR/Documents/UDHR_Translations/tsh.pdf

ⁱⁱ <https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2021/12/CHARITY-POWERPOINT-PRESENTATION-UNDESA-WKSHOP-NAIVASHA-Report-Revised.pdf>

ⁱⁱⁱ <https://www.helpage.org/silo/files/consortium-press-statement-on-lynching.pdf>

^{iv} <https://www.standardmedia.co.ke/article/2000087483/at-least-20-killed-monthly-in-kilifi-over-witchcraft-allegations-report>

^v https://r.search.yahoo.com/_ylt=AwrFaqowUsxmMOYM1LNXNyoA;_ylu=Y29sbwNiZjEEcG9zAzUEdnRpZAMEc2VjA3Ny/RV=2/RE=1725876017/RO=10/RU=https%3a%2f%2fwww.helpage.org%2fnews%2folder-people-must-be-protected-from-witchcraft-accusations%2f/RK=2/RS=zRQqWoZXg4bxFOd5fRvWmasK9tA-

^{vi} <https://www.bbc.com/news/articles/c4ng3z3j421o>