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**HelpAge International’s response to the questionnaire regarding the human rights implications of the implementation of the Madrid International Plan of Action on Ageing**

July 2015

**Introduction**

HelpAge International’s vision is a world in which all older people can lead dignified, healthy and secure lives. We work with older women and men in low and middle-income countries for better services and policies, and for changes in the behaviours and attitudes of individuals and societies towards old age. The Madrid International Plan of Action on Ageing (hereafter the Madrid Plan) remains an important reference point for our work.

Given the wide range of countries that HelpAge and its network work in, rather than take a single country approach, we have addressed the overarching theme of the questionnaire of whether the implementation of the Madrid Plan has enhanced the enjoyment of all human rights by older persons or whether it has had a negative impact and which rights have been affected. This submission focuses on the role that the Madrid Plan has played in enhancing States’ accountability to their human rights obligations to older persons.

It is based on the review and appraisals of the Madrid Plan to date, a review conducted by HelpAge of recommendations by Special Procedures, Treaty Body and the Universal Period Review, and HelpAge’s own experience of working with older people and submitting evidence to Treaty Bodies and the Universal Periodic Review system.

Our conclusion is that the Madrid Plan has had little impact in enhancing States’ accountability to their human rights obligations to older persons.

1. **A plan of action not a human rights instrument**

The Madrid Plan itself is not a human rights instrument; its very nature limits the impact it can have on the full enjoyment of human rights. There are four main limitations inherent in the design of the Madrid Plan in terms of the promotion and protection of the rights and dignity of older people.

i. The Madrid Plan is not a legally binding human rights treaty. The report of the Secretary General on the second review and appraisal of the Madrid Plan in November 2012 stated that Member States had done little to implement the recommendations made by the General Assembly and the Commission for Social Development over the last five years, thus exposing the inadequacies of a non-binding instrument and voluntary implementation.

ii. The Madrid Plan has no mandatory reporting system, no independent monitoring or accountability mechanisms, nor an investigating body for violations and non-compliance. Older people and other stakeholders have no basis on which to call upon their governments to enforce equal treatment and protection under The Madrid Plan.

iii. The Madrid Plan does not constitute a comprehensive human rights framework. It ignores human rights issues critical to the dignity and autonomy of older men and women, such as equality before the law; non-discrimination; access to effective remedies; freedom from torture and other cruel, inhumane or degrading treatment.[[1]](#footnote-1)

iv. The Madrid Plan does not articulate how universal human rights standards within existing human rights law apply in the specific context of older age and to older persons. It does not explain what States’ human rights obligations are to older people or the practical measures States need to take to ensure older persons enjoy all their rights.

For example, the Madrid Plan does not explain that, in the context of older age, to meet obligations under the universal human rights standard of non-discrimination, States should, inter alia

* prohibit and guarantee effective legal protection against discrimination on the grounds of age in all aspects of life including but not limited to physical and mental health care, social care, financial services, employment, goods and services, inheritance and property, and taxation
* prohibit and guarantee effective legal protection against all forms of discrimination including intersectional discrimination and the accumulating discrimination on the grounds of age alone or in combination with another or other ground(s) or factor (s)
* take special measures, reasonable and positive action to ensure equality and non-discrimination of older people in practice.

The lack of clarity on how universal standards apply to older persons remains a major barrier to better enjoyment of older people’s rights and to holding States to account for their human rights obligations. The Madrid Plan has done little to remove this barrier.

1. **Key failures in implementation: First and second review of the Madrid Plan and human rights**

These inherent limitations have resulted in failures to better protect and promote the rights and dignity of older people through implementation.

The report of the Secretary General on the 2007 first review and appraisal of the Madrid Plan (E/CN.5/2008/2) only mentions human rights and discrimination in passing. It provides little evidence of how implementation of the Madrid Plan has enhanced the enjoyment of all human rights by older people, apart from saying that some Member States have “generated new, or have modified existing legislation in order to prevent age discrimination and provide protection of the rights of older persons” (paragraph 7).[[2]](#footnote-2)

The report of the Secretary General (E/CN.5/2013/6) on the 2012 second review and appraisal paid more attention to human rights. It demonstrated that while some progress had been made in raising awareness among Member States of the needs of older people and their responsibilities towards them, ten years of implementation of the Madrid Plan had not resulted in an adequate response to discrimination in older age and the systematic violation of older people’s rights.

The report showed that Member States in all regions must do more to ensure the protection and promotion of a range of rights in older age in both law and practice including the rights to health, work, social security, education, housing, support for independent living, freedom from violence and abuse, non-discrimination on the basis of older age and autonomy. The report noted that Member States had done little to implement the recommendations made by the General Assembly and Commission for Social Development between 2005 and 2010 (paragraph 81). However, despite the report’s conclusions, its recommendations (paragraphs 86 – 87) also failed to address Member State’s lack of accountability or provide a guaranteed system of redress for violations of their rights or establish a more comprehensive international framework of protection of older people’s rights.[[3]](#footnote-3)

The UN High Commissioner for Human Rights also noted that efforts to implement the Madrid Plan had failed to systematically consider linkages to States’ human rights obligations under international human rights instruments in her report to the Economic and Social Council in April 2012.[[4]](#footnote-4)

HelpAge conducted its own global survey on older people’s experience of ageing for the second review and appraisal of the Madrid Plan. The findings showed that after ten years’ of the Madrid Plan, age discrimination was still widely recognised and experienced by the survey respondents. Thirty seven per cent of the respondents reported experience of age discrimination and 43% reported being afraid of personal violence.[[5]](#footnote-5)

1. **The Madrid Plan and the rights of older persons in humanitarian settings**

The Madrid Plan calls for older persons’ equal access to basic necessities and services in humanitarian emergencies and their inclusion in reconstruction after emergencies.

However, the Madrid Plan is non-binding and not enforceable. As such, it has little relevance or application when trying to hold humanitarian actors to account for the delivery of humanitarian action that addresses the needs of older people. For example, when Member States and their donor agencies are negotiating the conditions and terms on which humanitarian funding is provided to third parties, and for (I)NGOs own internal guidance, binding enforceable frameworks such as the Convention on the Rights of Persons with Disabilities are likely to receive greater attention than lesser-known action plans and suggested frameworks. In addition, our understanding and knowledge of the specific risks faced by older people in emergencies has developed since the Madrid Plan was drafted and hence the priorities need to be revisited.

1. **Invisibility of the rights of older persons in international human rights accountability system**

The introduction of the Madrid Plan states that “*The task is to link ageing to other frameworks for social and economic development and human rights*” (paragragh 15). However, the Madrid Plan has had little impact on the extent to which older people’s rights are reported on and monitored within the existing international human rights accountability mechanisms.

Since 2002, there have only been 110 specific recommendations on the rights of older persons across all the Special Procedures and Treaty Bodies.[[6]](#footnote-6) Across both cycles of the Universal Periodic Review to date, of the 38, 298 recommendations to reporting States, only 113 have referred to older persons. The majority of these were the inclusion of older persons in a list of other vulnerable groups. Only 39 recommendations were explicitly on the specific rights of older persons. Only four recommendations have been specifically on the elimination of discrimination in older age.[[7]](#footnote-7)

HelpAge has been submitting shadow reports based on the experience of the older people that we work with to Treaty Bodies since 2007 and stakeholder reports to the Universal Periodic Review system since 2008. Our experience of this shadow reporting is that State Party periodic reports and national Universal Periodic Review reports rarely refer to how States Parties are implementing the rights of older persons.

In addition we can find no instance when the Madrid Plan has been referred to in a periodic report to a Treaty Body or a national report to the Universal Periodic Review. A keyword search of “Madrid International Plan of Action on Ageing” created no results across the all Treaties Bodies, Special Procedures and the Universal Periodic Review records in the Universal Human Rights Index.[[8]](#footnote-8)

1. **The Madrid Plan as a barrier to the promotion and protection of the rights of older persons**

A UN working group, the Open-ended Working Group on Ageing, was set up in 2010 to discuss how to better protect and promote the human rights of older people.[[9]](#footnote-9) Over the course of six meetings, the Working Group has identified a number of gaps in protection of these rights.[[10]](#footnote-10) In 2012, the Working Group was tasked with considering proposals for an international legal instrument on the rights of older people.[[11]](#footnote-11) At the end of 2014, UN Member States were invited to present concrete proposals, practical measures, best practices and lessons learned to improve the protection of the rights of older people. These have been compiled and will be submitted to the UN General Assembly at the end of 2015.[[12]](#footnote-12)

Throughout this process, Member States resistant to the elaboration of a new convention on the rights of older persons[[13]](#footnote-13) have argued that better implementation of the Madrid Plan would address the human rights implementation and protection gaps that the Working Group has identified. They have repeated this argument at each session of the Working Group since 2011and have refused to acknowledge the lacunae in the Madrid Plan vis a vis human rights protection, despite the lack of reporting and findings of the second review and appraisal in 2012. The Madrid Plan has been presented as an alternative to a legally-binding convention and the accountability mechanisms that would accompany it and has been used to delay and prevent any progress towards such a convention.

A much more constructive approach would be to acknowledge that the Madrid Plan cannot take the place of an international human rights convention and that, rather, the standards in such a convention and the recommendations in the Madrid Plan would be mutually reinforcing, making the practical realisation of human rights in older age much more likely.

1. **Questions 5 and 6: Specific rights**

Questions 5 and 6 of the Questionnaire ask about the impact the implementation of the Madrid Plan has had on equality and non-discrimination and the right to an adequate standard of living.

In this section, we draw on the evidence we have submitted to Treaty Bodies and the Universal Periodic Review system in order to illustrate the lack of impact the Madrid Plan has had on enjoyment of these and other human rights. All the NGO reports referred to are in the public domain and are available on request.

**7.1 Equality and non-discrimination**

**Uganda, Joint NGO shadow report to CEDAW, 2010:** Age is not recognised as a prohibited grounds for discrimination in either the Constitution of Uganda (1995) under Article 21 (3)[[14]](#footnote-14) or the Equal Opportunities Commission Act of 2007 under its interpretation of discrimination in paragraph 1[[15]](#footnote-15). However, Article 32 (1) of the Constitution of Uganda does state that: “Notwithstanding anything in this Constitution, the State shall take affirmative action in favour of groups marginalised on the basis of gender, age, disability or any other reason created by history, tradition or custom, for the purpose of redressing imbalances which exist against them.” Similarly, the Equal Opportunities Commission Act of 2007 does include age and gender in its interpretation of treatment with regard to “equal opportunities”. The operationalisation of this Act must be sped up to address age and gender related discrimination.

Despite this, the *Combined fourth, fifth, sixth and seventh periodic report of States Parties*, CEDAW/C/UGA/7, is silent on the issue of gender and age. In addition, discrimination based on age and the intersection between gender and age-related discrimination are not adequately reflected in the draft National Policy for Older Persons, which tends to treat older people as a homogenous group, paying only minimal attention to gender inequalities[[16]](#footnote-16).

Women are not a homogenous group. Lack of data on older women in Uganda is a major challenge to assessing the extent to which their rights are being realised. For example, no data is available on the number of older women who experience violence. The Government recognised in paragraph 51 of the report that there is limited availability of gender disaggregated data for effective programme design and as a result many programmes do not necessarily address women’s priority concerns. Data must also be disaggregated by age so that programmes can be designed and resources allocated appropriately and the multi-dimensional nature of discrimination against women tackled effectively.

**7.2 Right to an adequate standard of living**

**Tajikistan, HelpAge UPR stakeholder report, 2011:** Older people are particularly vulnerable to extreme weather conditions due to weaker immune systems with a subsequent higher risk of increased ill health. Winters lasts for several months in major mountainous areas and weather gets very cold. At the same time shortages of coal, electricity and unstable gas supply, which is mainly imported from Uzbekistan, severely affect older people’s ability to heat their homes. The electricity supply in the major cities is more stable, however, the prices for consumption remains high in comparison to the average salary and pension. During these months older people often cope by staying in bed, only leaving their homes in the most urgent circumstances and only heating them when cooking the evening meal.

Increased seasonal food prices due to global markets and local seasonality, insufficient pensions and infrequent or no remittances severely impact on older people and their household’s access to adequate nutrition and enjoyment of the right to food. The cost of consumer’s basket, at actual consumption in 2009 amounted to 105 somoni (approximately US$24) per one household member. In September 2010, the cost of the food basket had doubled to 205 somoni (approx. US$46)[[17]](#footnote-17). As a result older people on inadequate pensions are unable to afford to buy the food they need for adequate nutrition for themselves and those in their care.

**Republic of Moldova, HelpAge UPR stakeholder report, 2011:** For older people living in rural areas the winter, as voiced by many, is “not only a natural but personal disaster”. The main heating fuel in villages is coal and wood that is only partially compensated by the state and many of the vulnerable families use cow’s dung to heat the houses. The older people reported that they only heat a small room in the house where they move to live with all their family members waiting when the winter ends[[18]](#footnote-18). Houses being in a poor state and requiring reparation and insulation do not maintain a warm temperature and older people sleep with their clothes on and wrapped up in several blankets. The food remains plain and the diet is poor. Many families used to preserve food for winter including meet and vegetables but due to poverty levels and lack of money food security is still very low.

**Bolivia, HelpAge UPR stakeholder report, 2009:** The vast majority of older people live in poverty. Sixteen percent are considered poor; 27.10% live in moderate poverty; 30.01% live in extreme poverty, and 6% live in marginality. This implies that 79% of older people live in conditions of poverty and are denied the right to an adequate standard of living and security in old age.

**7.3 Right to social security**

**Mozambique, HelpAge UPR stakeholder report, 2015:** A study by Instituto de Estudos Socias e Economicos (IESE)[[19]](#footnote-19) which analysed data from National Household Budget Survey (2010) showed that 58% of older people live below the official poverty line compared to 54% for the rest of the population. However only 25% of the 1.3 million older people in the country have access to the government targeted food subsidy cash transfer which is transferred monthly to vulnerable older people.

**Nepal, HelpAge UPR stakeholder report, 2015:** Barriers to older people’s enjoyment of right to social security remain. According to the Senior Citizen Policy and Working Policy - 2058 BS (2002 AD) “*Allowances shall be provided in an appropriate way to the senior citizens economically weak and socially insecure. Considerations shall be made to provide other facilities*.” Nonetheless 13% of eligible respondents in a 2012 HelpAge International Nepal[[20]](#footnote-20) survey were not aware of their eligibility and therefore were deprived of their Old Age Allowance, Widows Allowance or Health Allowance. A later end-project survey[[21]](#footnote-21) compiled by the same agencies in mid-2013 showed that on average, one-fifth of the surveyed population of 4639 Older People above 70 years of age (the starting age for the Old Age Allowance, or the OAA) were still deprived of their due allowances.

**The Kyrgyz Republic, HelpAge UPR stakeholder report, 2014:** For many older women and men who receive a pension, the amount is so low that it prevents them from enjoying an adequate standard of living and other rights including access to healthcare and the rights to housing, food and water. Despite the fact that the pension has reached the minimum subsistence level in Kyrgyzstan for the last year[[22]](#footnote-22), pensioners do not feel secure in terms of income. People who retired before 1996 do not receive the second part of the insurance pension (individual insurance account) as this was introduced in 1996. As a result 67% of pensioners receive a pension that is lower than the minimum subsistence level and have to continue working.

As a result older people are unable to afford basic necessities. According to the HelpAge survey[[23]](#footnote-23) in 2012 5% of older respondents reported lack of access to everyday essentials such as food, water, shelter, heating, fuel and clothing as a serious problem for them personally all of the time, with a further 27% per cent reporting such difficulties regularly and 47% per cent occasionally. When these respondents were asked if they felt this was because of their age, 8% reported this to be the case all of time or regularly, and 31 per cent occasionally.

**Cambodia, HelpAge shadow report to CEDAW, 2013:** Under section 148 (CEDAW/K/KHM/4-5), the Royal Government of Cambodia stated that in its political programme, “The Ministries of [Labour and Vocational Training, and Economy and Finance] are responsible for managing the social security fund, [National Security Trust], and ensuring that its benefits reach its members in order to alleviate difficulties relating to old age...” As a result, the government has adopted appropriate measures for women who are currently employed in the formal sector, however excludes older women, especially those currently working in the informal employment sector.

Older women are also less literate than older men which limits their employability, participation and voice in community development activities. Older women are more likely to be unable to provide economic, food and material support for themselves, as compared to older men. Many older women lost spouses and children during the Khmer Rouge regime during the late 1970s. Almost half of older women are widowed, a much higher proportion than men, who have a greater chance of remarrying[[24]](#footnote-24).

Research has shown female widowhood coincides with a high level of poverty.[[25]](#footnote-25) IFAD reported in rural areas, nearly 70 per cent of woman-headed households are poor and vulnerable[[26]](#footnote-26). WFP, ID Poor Atlas “*Identification of Poor Households in Cambodia*” August 2012 indicated that women 85 years and over who are head of a household are twice as poor than men’s household in the same age group[[27]](#footnote-27). But even older women who are classified as ‘ID Poor’ are not always able to access the benefits that are involved with the scheme. Older women are lacking the traditional familial social and economic support with the extra burden of raising their grandchildren with little resources, especially in rural areas as a result of migration.

**The Republic of Moldova, HelpAge shadow report to CEDAW, 2013:** Pensions are the only source of income for the majority of older women and dependents in their care. Under the current contributory pension system, pensions are paid quite reliably, but their level is inadequate and consistently below the subsistence income. For those living on non-contributory, social assistance benefits the situation is even bleaker. The average pension in Moldova in 2012 was 900 MDL (US$74) and the minimum constituted 625 MDL (US$52) while the minimum subsistence level was 1503 MDL (US$123), pensions respectively making 59% or 42% of this minimum. The pensions that women receive are often lower than men’s because women have worked in lower paid jobs in their working lives. Annual indexation fails to increase the pension to a level that allows for an adequate standard of living. The average indexation started in 2003 with average indexation level of 20 per cent per year while in 2010 pensions were indexed by only 4.65 per cent.[[28]](#footnote-28) Further on, according to data of the Ministry of Labour, Social Protection and Family in 2011 pensions were indexed by 7,8% and in 2012 by 9,6% and it 2013 by 6,75% only.

**Jamaica, HelpAge report to pre-sessional working group of CESCR, 2012:** In its Combined third and fourth periodic report of Jamaica, E/C.12/JAM/3-4, 14 June 2011, (hereafter the Report), the Government of Jamaica reports that in 2007 only 28 per cent of people 60 years and over received benefits under the National Insurance Scheme (NIS) (a compulsory, contributory funded social security scheme) signalling a large coverage gap among this population. The Government not only recognises this wide coverage gap in the Report but also the imbalances in contributions compared with benefit payments, the existence of a large informal economy, and longer pay out periods due to increased life expectancy rates as major challenges.[[29]](#footnote-29)

This wide coverage gap is further exacerbated by the inadequate numbers of older people in receipt of the Programme of Advancement through Health and Education, a conditional cash transfer available to older people who meet means testing criteria. According to the Economic and Social Survey Jamaica 2010[[30]](#footnote-30), in December 2010 the percentage of older people receiving the NIS had dropped to only 22.8% and only 17.3% received the PATH. This leaves approximately 60% of older people without receipt of either of these social security benefits. For many older people, these social security benefits are the only source of secure income in old age available to themselves and those who are dependent on them. Older people also report a wide gap between those who register for the PATH and those who receive it[[31]](#footnote-31).

In its Report the Government of Jamaica acknowledges the importance of the informal sector in reducing poverty and unemployment.[[32]](#footnote-32) Despite this contribution made by those working in the informal sector, the large numbers of people presently working in the informal sector do not have access to contributory pension schemes and will therefore have very limited or no access to social security when they reach retirement age.

**Republic of Tanzania, HelpAge report to pre-sessional working group of CESCR, 2011:** The Government has put in place social protection policies which appear progressive and indicate that Tanzania is intending to significantly reduce poverty among disadvantaged groups including older people. These include among others:

1. The National Ageing Policy of 2003
2. The 2003 Social Security Policy
3. The National Social Security Framework pending to be approved by cabinet
4. The National Strategy for Growth and Reduction of Poverty (MKUKUTA 2010) Goal 6 which is about “providing adequate social protection and rights to the vulnerable needy groups”and has an operational target which aims to increase the proportion of older people reached with a minimum social pension.”

However, an enormous gap exists in the coverage of old age income security. Only 6.5 per cent of the workforce is currently covered by formal social security and informalisation within the Tanzanian economy is increasing.[[33]](#footnote-33) While state-financed and non-governmental non-contributory income security schemes for older people do exist, they are extremely small-scale and appear to exhibit a range of constraints relating to scalability.

**Tajikistan, HelpAge UPR stakeholder report, 2011:** By the end of 2009, 47 % of the population lived in poverty, 14 % of whom lived in extreme poverty[[34]](#footnote-34). A national survey[[35]](#footnote-35) on ageing showed that high poverty rates and accordingly low household income, is mainly found in those households with older people. For many older people whose children have migrated to Russia or a third country, their pension is the only source of income for them and dependents in their care. The number of older people (above 60) in Tajikistan in early 2010 consisted of 386,500, which is 5% of the total population (an increase of 14.6 % since 2000). The number of old-age pensioners registered by social security authorities in 2009 was 319,000[[36]](#footnote-36).

Whilst improvements have been made by the Government in delivering pensions more efficiently, their value remains extremely low and does not allow for an adequate standard of living and security in old age. The average pension in February 2010 was only 91 somoni, which was approximately 90 percent of the extreme poverty line. In 2010 the minimum pension was raised from 60 to 80 somoni, which is approximately US$18. 70% of respondents to the above-mentioned survey on ageing received this minimal pension, which is inadequate for them and their dependants. In February 2010 a sack of flour, which is not enough for a family for one month, costs 120-130 somoni (US$27 - 29) at the local market.

**Republic of Moldova, HelpAge UPR stakeholder report, 2011 and shadow report to CESCR, 2011:** Under the current contributory pension system, pensions are paid quite reliably, but their level is inadequate and consistently below the subsistence income. For those living on non-contributory, social assistance benefits the situation is even bleaker. The average pension in Moldova in 2010 was 837 MDL ($69) and the minimum constituted 594 MDL ($49) while the minimum subsistence level was 1368 MDL ($114 USD), pensions respectively making 60% or 43% of this minimum. Poverty increases with age: 35.5 per cent of people over 65 years old indicate the absolute poverty rate[[37]](#footnote-37) and this rises to 43 per cent amongst those between 70 – 75 years old, who are often living alone in urban areas with a pension[[38]](#footnote-38).

In 2008 the Moldovan Government introduced a new law on social aid to provide for the most vulnerable layers of the population through cash benefits. Social aid granted to poor families is set on the basis of the average global income of the family and minimum monthly guaranteed income set up by the state through available state budget funds. The 2008 and 2009 amount of monthly guaranteed income constituted 430 MDL (around $35,8)[[39]](#footnote-39) which is way below the minimum subsistence level of 1368 MDL ($114 USD)[[40]](#footnote-40). In addition the criteria for poverty assessment for social aid does not adequately represent the poverty levels and is mostly assessing cash benefits flowing into the households cash box including income made from the land. In consultations with older people, HelpAge and its partners’ experience is that most older people are excluded either by ignorance of their eligibility or by practical obstacles, or by the level of the top up being so insignificant that they are reluctant to apply.

**Uganda, Joint NGO UPR stakeholder report, 2011:** The Government has recognised that the majority of older people are living in abject poverty and require pension or social assistance[[41]](#footnote-41). However, there is no universal non-contributory pension in Uganda. This particularly disadvantages women as very few have access to a formal sector, contributory pension. According to Government figures, only 7.1 per cent of the total labour force, 60% of which are men, has access to a pension under the Uganda National Pensions Scheme and the National Social Security Fund (NSSF)[[42]](#footnote-42).

**Uganda, Joint NGO shadow report to CEDAW, 2010:** According to Government figures, only 7.1 per cent of the total labour force, 60% of which are men, has access to a pension under the Uganda National Pensions Scheme and the National Social Security Fund (NSSF)[[43]](#footnote-43). These schemes also have problems in terms of administration and regular payment. For the few women whose husbands were in receipt of a pension, they may also collect their deceased husband’s pension for a statutory period. In reality, however, the practice of property-grabbing from widows by male relatives is often extended to income as well as other assets.

The Government recognises that women in the informal sector are not covered by the social security system in paragraph 125 of the *Combined fourth, fifth, sixth and seventh periodic report of States Parties*, CEDAW/C/UGA/7, May 2009, and states that efforts are underway to “transform the entire system to increase coverage”. The Government has also recognised that the majority of older people are living in abject poverty and require pension or social assistance[[44]](#footnote-44).

**Burkina Faso, HelpAge shadow report to CEDAW, 2010:** The Government states in paragraph 177, Table 8 of the *Sixth periodic report of States parties*, CEDAW/C/BFA/6 that only 1.7% of women (compared to 4.8% of men) are entitled to a pension and recognises the challenges in extending coverage to those in the informal sector. Although the rates for both women and men are low, the fact that coverage of these contributory pensions is over double the rate for men as it is for women shows that contributory pensions can exacerbate and reinforce gender inequalities.

**7.4 Right to the highest attainable standard of health**

**Mozambique, HelpAge UPR stakeholder report, 2015:** Older people do not have access to age-appropriate services and are being denied their right to affordable to medicine. 22% of the older people interviewed in Mozambique in a multi country study[[45]](#footnote-45) conducted by HelpAge International in 2013 reported that their health and medical needs are neglected because of their age. Older citizen reports from Gaza and Maputo Provinces in 2011 showed that 43% of older people were asked to pay for health services despite their legal entitlements to receive these free of charge. Older people’s access to appropriate and quality healthcare for older people is also severely restricted by the lack of health staff specializing in geriatrics. There are only two geriatric doctors in the whole country.

**Nepal, HelpAge UPR stakeholder report, 2015:** According to the Senior Citizen Policy and Working Policy - 2058 BS (2002 AD),*Free medicinal treatment and services shall be provided to those senior citizens who want to have medical treatment in general bed or outdoor service in government hospitals and health centers.*Despite this older people face significant challenges to their right to access health services since the majority of existing health facilities, including those hospitals that have established geriatric wards, do not have health personnel who are trained in geriatric medicine or in care for different forms of dementia, including Alzheimer’s disease.

Healthcare is also unaffordable for many older people. Despite the annual provision of NRS 2,000 (around 20 USD) for health expenses borne by older people in government hospitals, concerns remain about the lack of awareness amongst older people about this provision and how accessible it will be in practice. 58% of the total 27, 279 OP respondents from the November survey reported that poor health infrastructure/services was a major deterrent in older people seeking proper health care. 72% stated that they still had to pay for their health care, and 74% said that they still paid for their medicines. 68% stated that they were not even aware of the Government of Nepal’s health care fund and just 3% stated that they took the time to access the health care funds/allowance.[[46]](#footnote-46)

**The Kyrgyz Republic, HelpAge UPR stakeholder report, 2014:** Age discrimination in health care provision is widespread; older people note that ambulance services ask for the patient’s age and routinely discriminate against people over 50:“*We have to tell a lie when calling an ambulance*” says a member of an older people’s group in Bishkek.[[47]](#footnote-47)

Health care is also unaffordable for many poor older people. The HelpAge survey[[48]](#footnote-48) found that 14% of respondents indicated that there was no health facility within half an hour travel time of their home, including 8% of those living in urban areas and 21% in rural areas. Lack of access was higher among those older people who self-identified as experiencing a limiting longstanding illness or disability (LLID).

Survey respondents noted that they experienced age discrimination in accessing healthcare treatment. 16% said they experienced worse treatment by health professionals because of their age and 12% said that their health and medical needs had been neglected because of their age. Age discrimination in accessing healthcare treatment alongside inadequate income through pensions are major barriers to older people’s enjoyment of their right to health.

**Cambodia, HelpAge shadow report to CEDAW, 2013:** HelpAge International in Cambodia reported that health problems are high amongst older women particularly hypertension, stroke, arthritis, diabetes and other non-communicable diseases. But in most of cases because of the large expense of medical care, older people very often are forced to prioritise the food and livelihood security of their families over their health and medical needs[[49]](#footnote-49). Older women experiencing early health problems have reduced ability to contribute to the economy and welfare of the household.

Affordable and accessible health care is very limited for older women in Cambodia, most particularly for those in rural areas. Age-related diseases and treatments are often neglected, with focus only on women of reproductive age. There is little availability for on-going support to enable older women to live independently and no capacity for the screening of disease. Information about healthy nutritional practices and an active lifestyle is provided almost exclusively by the NGO sector. There are limited programs tailored for the physical, mental, emotional and health needs of older women.

**Republic of Moldova, HelpAge shadow report to CEDAW, 2013:** According to a HelpAge survey[[50]](#footnote-50) conducted in 2012 in two rural and two urban communities older women and men didn’t seek medical support or treatment when they needed it for the following reasons: (i) the doctor’s consultations and the medical treatment are too expensive (20.0%), (ii) the medical office is too far from the living place (13.8%), (iii) transportation is too expensive (10.8%), (iv) lack or no access to transportation (10%), (v) medical workers have bad attitude towards older patients (5%).

The health needs of many older women and men and in particular access and provision of geriatric medicine are met improperly. Access to geriatric doctors is 2.16 per 10,000 elderly[[51]](#footnote-51). The geriatric services are mostly developing in big cities or rayon level clinics. Older women from rural areas have poor awareness and access to these services.

**Jamaica, HelpAge report to pre-sessional working group of CESCR, 2012:** Despite the healthcare subsidies that are offered through the National Health Fund (NHF), the Jamaica Drugs for the Elderly Programme (JADEP) and the Government Pensioners Health Scheme[[52]](#footnote-52), older people have reported a number of barriers to exercising their right to health. These include not having a birth certificate to show proof of age and eligibility for the schemes, high transportation costs, long lines at health facilities and pharmacies and insufficient supplies of drugs in stock.

Lack of income is also a barrier and many older people cannot afford the drugs and medical costs that are not covered under existing schemes. For example, a number of drugs covered through the JADEP and NHF are not always available at pharmacies participating in the programme, nor are all the medications prescribed by doctors included in the list of drugs covered under the programme. In addition whilst older people may be exempt from paying for diagnostic testing and surgery costs, they have to wait inordinately long periods ranging from six months to one year to have tests and surgery done by which time many older persons succumb to their illness.

**Tajikistan, HelpAge UPR stakeholder report, 2011:** Health care is unaffordable for many poor older people. Despite the state remaining the main public funder and provider of health care services in Tajikistan, private out-of-pocket payments account for an estimated 76% of total health care expenditure in 2007, one of the highest percentages in the WHO European Region[[53]](#footnote-53). High costs of medicine, informal fees and inadequate income through pensions or remittances are major barriers to older people’s enjoyment of their right to health.

**Republic of Moldova, HelpAge UPR stakeholder report, 2011 and shadow report to CESCR, 2011:** Health care is unaffordable for many poor older people. Poor health and high prices of medicines is another big problem named by older people in repeated consultations and discussions with HelpAge. HelpAge research in 2007 showed that nine out of ten older people suffer from at least one non-communicable disease, and that 4 out of 10 respondents suffer from more[[54]](#footnote-54). The primary health care family medicine (PHC) that was introduced in 2005 annually approves a set of medical services in a single health insurance package as part of compulsory health care insurance. However, this compulsory package is very limited and the list of compensated medicines is very basic and insufficient in the case of serious diseases.

**Uganda, Joint NGO shadow report to CEDAW, 2010:** The Government recognises in paragraph 197, Table XI, of the *Combined fourth, fifth, sixth and seventh periodic report of States Parties*, CEDAW/C/UGA/7, May 2009, that gender disparities still exist with regard to accessing health care. This is the only instance in the report that they present data disaggregated by age and sex, yet they fail to analyse the data based on both of these factors. The data shows that older women have the greatest difficulty in accessing health services due to the health facility being too far away, the high cost of treatment and other reasons which are not elaborated on. The fact that older women and men both cite the highest percentage of negative attitudes of health workers preventing them from accessing health is reflected in the experience of older women in the IDP camps in Northern Uganda where they were treated as worthless and told that their problems were just to do with old age and there was nothing that could be done[[55]](#footnote-55).

**Republic of Tanzania, HelpAge shadow report to CEDAW, 2008:** Difficulties in accessing the free health care to which vulnerable older people are entitled[[56]](#footnote-56) in Tanzania is an issue for both older women and men, in terms of proving they are “vulnerable”, having the identification necessary to prove their eligibility and travelling long distances to health posts, although high levels of illiteracy can further disadvantage women.

It is in the context of the HIV epidemic that older women are being denied access to the support and services that they need. 64% of children who have lost both parents to HIV and AIDS are living in a household headed by older people[[57]](#footnote-57). No national data exists on the number of older women caring for vulnerable children or sick adults living with HIV and AIDS but it is often older women who carry the burden of caring for them. In a survey of four urban wards carried out by HelpAge International’s partners in December 2005, older women made up 64% of the older people caring for vulnerable children and 60% of the older people caring for sick adults[[58]](#footnote-58). The emotional and financial impact of this caring role can be enormous, particularly on older widows who have no source of regular income with which to support themselves or their dependents.

Despite this, the national guidelines for home-based care service providers lack an understanding of the specific needs and role of older women with the underlying assumption all carers are mobile adults, literate, energetic, productive and that the family has the necessary economic means to pay for medication, water, adequate food and shelter. As a result the urgent needs of older women carers arising from their caregiving roles - physical, medical, financial and emotional – have not been targeted by local, provincial or national service providers.

**Bolivia, HelpAge shadow report to CEDAW, 2007:** Law 3323 *Health Insurance for Older People* guarantees older people over 60 years who do not already have medical insurance free health care, including laboratory services, dental work, hospitalisation, treatment and medication. This law has surpassed the *Law of Rights and Privileges of Older People (Decree 1886)* in effect from 1998 to 2006.

One of the major barriers to rural older women accessing free health care is lack of identity documentation proving their eligibility to this entitlement.

A significant barrier for older women in rural areas is the discrimination they experience because of their ethnicity and the fact that their primary language is different to that of the health personnel. HelpAge International’s Older Citizen Monitoring Project (2003-2006) demonstrated that the greatest barrier for old women accessing quality health care services was the discrimination and lack of respect experienced from health staff and administrators in hospitals and clinics. Older people have reported being provided with expired medicine or medicine that was in poor condition.[[59]](#footnote-59)

**7.5 Right to freedom from violence and abuse**

**Mozambique, HelpAge UPR stakeholder report, 2015:** Older people, especially women, continue to be subjected to violence and abuse despite the legal protection afforded them within Law n.º 3/2014 on the Promotion and Protection of Older People Rights and Law n.º 10/2004 on the Family. Information from the study conducted by HelpAge International in 2013 showed that 71% of the older people surveyed had experienced at least one category of abuse (financial, emotional, physical, sexual and witchcraft accusations). The majority of those who had been subjected to sexual and physical violence did not tell the police or other authorities.[[60]](#footnote-60)

**Peru, HelpAge shadow report to CEDAW, 2014:** Current legislation, Law No. 26260 on the protection against family violence, provides for different forms of violence committed by a wide range of family members and requires the State, inter alia, to undertake awareness campaigns, promote study and research, train law enforcement agencies and the judiciary establish prevention measures and provide effective legal process for victims. Despite this, the violence that many older women experience within their homes and their communities continues to happen with impunity. When women do report, data collected on cases of violence by both the Ombudsman and the women’s emergency centres located within police stations is not made available disaggregated by age and so the level of violence against older women remains invisible.

In a survey conducted by HelpAge International in 2012[[61]](#footnote-61) older women reported that discrimination on the basis of their age was a regular and common experience in their lives. They had experienced extremely high levels of violence and abuse since the age of 50 and reported unmet health needs, neglect in social care and being treated in a degrading or humiliating way because of their age. Older women continue to experience different forms of violence and abuse. Very few older women report this violence or seek redress and so the vast majority of perpetrators are acting with impunity.

The HelpAge International survey of 2012 looked at 5 areas of violence and abuse (financial, psychological, physical, sexual and malicious accusations) among women over the age of 50. The sample sizes were small and so we cannot draw inferences about the prevalence across the population as a whole but we can see multiple forms of violence are being experienced by older women in different urban, rural and peri-urban settings. Across all categories of abuse, of the women surveyed 83% reported experiencing at least one category of abuse since they turned 50.

**The Kyrgyz Republic, HelpAge UPR stakeholder report, 2014:** TheLaw on Social and Legal Protection from Domestic Abuse (March 25, 2003) provides protection mechanisms to victims of domestic violence and states “*The Law is aimed at creating of social-legal system of protection lives and health of all family members and provides protection from domestic violence, based on observation of international standards of human rights.”* Despite this, the Law doesn’t specify older people as a distinct group of people particularly vulnerable to abuse and violence and older people continue to experience different types of violence and abuse.

Findings from a HelpAge International 2012 survey[[62]](#footnote-62) that looked at 5 areas of violence and abuse (financial, psychological, physical, sexual and malicious accusations) among women and men over 50 in Kyrgyzstan show that both older women and men are experiencing different forms of violence on the basis of their old age. Across all categories 39% of women surveyed and 31% of men surveyed reported experiencing at least one of these categories of abuse since they turned 50.

**The Republic of Moldova, HelpAge shadow report to CEDAW, 2013:** Focus group discussions conducted by HelpAge and the Gender Centre in 2013 reveal painful and private patterns of abuse experienced by older women. Older women and men said they feel very high levels of shame in being subjected to violence by family members, typically characterised by physical, financial and psychological abuse. They do not formally report this violence, or indeed talk about it to anyone; there is an overwhelming sense of being alone and powerless to change the situation. In order to cope, many victims of elder abuse ‘normalise’ their situation, which is why it is critically important to strengthen legal framework to protect the victims of abuse and violence.

**Republic of Tanzania, HelpAge UPR stakeholder report, 2011:** According to the Legal and Human Rights Centre report (2009) there was a total of 2,585 killings of older women in 8 regions of Tanzania where the practise is predominant for the last five years prior to February 2009. This means an average of 517 killings per year. Statistics for Mwanza region alone, which has the highest older women killing rates, indicate that 698 older women were killed as a result of witchcraft allegations during that span of five years, being an average of 140 killings per year i.e. almost two killings every two days.[[63]](#footnote-63)

Institutional and cultural barriers hinder the systematic collection of data relating to witchcraft accusations and rights violations. The perpetrators of this violence include traditional healers who economically benefit from the situation, local militia who also benefit economically through bribery in order not to accuse someone of being a witch, the paid killers who also benefit economically. In most cases it is family members who accuse an older woman in that family of being a witch – after seeking the advice of the traditional healers. This makes investigation of the killings difficult as there is limited cooperation from the family members. Structural obstacles limit the capacity and the mandate of the authorities to address the issue. Most national level human rights organisations are based cities hence being difficult to follow up rights violations in urban areas. Public authorities at all levels have failed to address the victimisation of older people, particularly older women. Duty bearers such as the police and the judiciary can be compromised by bribery and can be unwilling to engage in ‘domestic’ issues. The National Ageing Policy that has a clause on the killings of older women has for seven years not been regulated to make it legal binding. The general community marginalisation of older women’s issues has made the media only report on the incidences but without analysis or follow up.

**Burkina Faso, HelpAge shadow report to CEDAW, 2010 and stakeholder report to UPR 2008:** A genuine belief in witchcraft is widespread in Burkina Faso and older women are often the subject of accusations. Accused women are subjected to psychological trauma, physical harm, social exclusion, impoverishment through loss of property and assets, and ultimately banishment from their communities.

Very little quantitative data exists on the number of witchcraft accusations made and their impact. The data presented here is from a 2006 study conducted by HelpAge International and the Ministry of Social Action and National Solidarity (MASSN)[[64]](#footnote-64). Interviews were conducted in 7 provinces with people in the community and those who had been banished and were livingeither in or outside reception centres (refuges). The research showed that 90% of the people who had been banished had suffered rejection and banishment from their community as a result of witchcraft accusations. 51% of those accused of witchcraft felt that their lives were in danger. All of them suffered humiliation and insults before being forced to leave their homes and communities.

The majority of the those interviewed who had been banished were women (88%), illiterate with no education (97%), belonging to the Mossi tribe (82%) and 70% had been over 40 years old at the time when they were accused of witchcraft and banished from their homes. 58% of those who had been banished lived on less than one dollar (425 francs CFA in 2006) per month. 56% of the women who had been banished were married, 29% widowed and 2% remarried. Polygamy is very common. Of the women who had been excluded in the research, 67% were in polygamous marriages. About 80% of witchcraft accusations are instigated by close family members, due to the low value placed on older women in Mossi society and within polygamous families.

Lack of awareness and protection perpetuates persecution and abuse of women’s rights. Older women are often reluctant and afraid to seek protection or report violations. The study in 2006 showed that less than 10% of people accused of witchcraft were able to request that their guilt be established and 75% said they would rather have died than undergo such humiliation. Accused women have no support, access to legal advice or redress and therefore no option but to leave the community. 55% of those interviewed said their immediate thought on being accused was to commit suicide.

There is a lack of reliable data on the scale of witchcraft-related rights abuse. Institutional and cultural barriers hinder the systematic collection of data relating to witchcraft accusations and rights violations and the reporting of cases to the authorities. Police in Arbolles department in Passore province estimated in 2009 that only 20% of cases were reported to them and the gendarmerie in Yako, the provincial capital of Passore, recorded only 3 cases in 2009[[65]](#footnote-65).

Finally, civil society’s capacity to defend older people’s rights and advocate for policy development and implementation is weak. While a range of civil society organisations have emerged in response to widespread chronic poverty and rights violations, they frequently lack the capacity to challenge deep-rooted traditional practices, customary laws and state inertia.

**Kenya, Joint NGO UPR stakeholder report, 2009:** Older women and men are being accused of witchcraft and subjected to brutal beatings and, in the worst cases, being burnt alive by what are being described in the Kenyan media as angry lynch mobs taking the law into their own hands. Reliable data on the number of witchcraft accusations and physical attacks is hard to come by. It has been reported in the media that an average of six people are lynched every month in Kisii district alone for allegedly practising witchcraft.[[66]](#footnote-66) 22 killings have also been reported in Malindi since mid-2008.[[67]](#footnote-67) A recent assessment by HelpAge Kenya and HelpAge International found that there has an upsurge in the number of killings of older people accused of witchcraft. They estimate that 42 older people were killed in three districts in 2008 and 23 older people had been killed in three provinces in the first half of 2009.[[68]](#footnote-68)

The perpetrators of this violence are often young people, in some cases family members, are rarely arrested and are often encouraged by community members who think that they are carrying out a form of justice against the person accused of witchcraft. In the unlikely event of the suspects being arrested, witnesses are reluctant to come forward and the suspects are often released with no charges brought against them. This has perpetuated a culture of impunity around these attacks.

Structural obstacles limit the capacity and the mandate of the authorities to address the issue. Public authorities at all levels have failed to address the victimisation of older people, particularly older women. Duty bearers such as the police and the judiciary can be compromised by bribery and can be unwilling to engage in ‘domestic’ issues. Government policy instruments, such as the PRSP, fail to make specific commitments to meeting the needs of older people. The media highlights horrific pictures and video footage of the attacks but does not follow up to ensure justice is done.

The Kenya National Commission for Human Rights is based in the capital city and is understaffed. It is unable to respond quickly enough to accusations and attacks that take place outside of the capital. Localised human rights accountability mechanisms are urgently needed.

Civil society’s capacity to defend older people’s rights and advocate for policy development and implementation is weak. While a range of civil society organisations have emerged in response to widespread chronic poverty and rights violations, they frequently lack the capacity to challenge deep-rooted traditional practices, customary laws and state inertia.

**Bolivia, HelpAge UPR stakeholder report, 2009:** The abuse of older people in Bolivia is recurrent and the real extent of the problem is not known; there is no data at the national level, and the erroneous assumption is made that it only affects a minority of persons. The older adult population is considered invisible and non-productive. There is a tendency towards not considering the mistreatment of older people as an expression of the violation of rights towards them, and thus society turns a blind eye to abuses that occur in common spaces, offices, public services, communities, and even the family unit.

According to the Socio Legal Center COSL, during the three years of the project, there have been over 25,000 cases of complaint of abuse and violation of the rights of older people in three cities, demonstrating the alarming vulnerability of older people in Bolivia. The legal stipulations that protect older people have not contributed towards lessening the severity of the problem because they are not complied with, are not recognized by the institutions of the State itself and society, and in many cases are not recognized by the older people themselves.

**Mozambique, HelpAge shadow report to CEDAW, 2007:** We welcome the Government’s inclusion of violence against older women in the PNPI. A specific objective in the PNPI is to develop mechanisms to prevent abuse and violence against older people, particularly older women (4.1.f). Similarly Mozambique’s second poverty reduction strategy, the Plan of Action for the Reduction of Absolute Poverty, (PARPA 2) adopted in 2006 calls for the awareness raising activities on older people’s rights, in particular gender-based violence.

Despite this older women in Mozambique continue to experience gender-based violence. National data does not exist on the extent of violence against older women. Older women are often reluctant to report incidences of violence against them, often because of fear of the consequences, or the fact that not speaking Portuguese and being illiterate prevents them from being able to negotiate the system[[69]](#footnote-69). Despite this, and the relative percentage of older women in the population, 4 per cent of all reported cases of violence against women in Maputo City, Sofala, Maputo and Inhambane provinces 2004 – 2005 were committed against older women[[70]](#footnote-70). A survey based on reports of paralegals working with older people on a project run by HelpAge International and its partners showed that older women are subject to accusations of witchcraft which often lead to physical attacks, psychological abuse, loss of their property and expulsion from their homes or community[[71]](#footnote-71).

**7.6 Right to employment**

**The Republic of Moldova, HelpAge shadow report to CEDAW, 2013:** The Labour Code of the Republic of Moldova prohibits any discrimination of employees based on sex, age, and other criteria (Article 8) and also prohibits the arbitrary refusal to recruit a person (Article 47). However, the National Labour Code, Article rt.82 (i) sets the upper age limit of 65 years of age for the heads of state units, municipal units, or units with state majority capital to be employed at managerial positions. In the focus group discussions organised by HelpAge and Gender Centre in 2013 with participation of over 100 older women, members of HelpAge network of volunteers and beneficiaries from 10 communities across Moldova, over 60% of women indicated age as a barrier to employment and the mandatory retirement age as an impediment to continue employment particularly in leading positions.

**Uganda, Joint NGO shadow report to CEDAW, 2010:** Many older women, by choice or necessity, continue working despite the statutory retirement age of 50 years for both women and men. According to UN statistics, 55% of women over 60 are still in the labour force[[72]](#footnote-72), and the vast majority of these work in the informal sector.

Focus group discussions conducted in 2008 by Uganda Reach the Aged Association (URAA) revealed that women face discrimination in employment in the formal and informal sectors based both on their age and sex. For example, older women renting properties for their businesses felt intimidated and were often threatened by their landlord if a payment lapsed. Group participants agreed that this would not happen to men because people have more respect for them[[73]](#footnote-73). In terms of a gender pay gap, even in the informal sector older women usually earn less than older men. Wages for labouring, cooking or cleaning of any kind are paid on the basis of how hard the work is rather than the number of hours worked. As men are usually given what is considered heavier work, women usually end up with less pay for and longer working hours[[74]](#footnote-74).

**7.7 Right to education**

**Uganda, Joint NGO shadow report to CEDAW, 2010:** The Government has made significant progress towards equalizing the percentage of females and males at most levels of education, however, the gap still exists among older people who never benefited from the current programs. Older women have rarely received any education. Older women themselves say that it was common for them to either start school late (around age 10) or received very little education because of domestic duties or because limited funding was available for school fees and boys were prioritised over girls[[75]](#footnote-75). According to the most recently available statistics from UNESCO, the literacy rate for women over 65 is only 15.5%, compared to 45% for men over 65, and women make up 65% of those over 65 who are illiterate[[76]](#footnote-76). These literacy rates are significantly below the national rates of 63% for women and 76% for men[[77]](#footnote-77). This illiteracy level seriously limits older women’s access to information on their rights and their ability to participate in development and other community activities.

**7.8 Right to an identity and citizenship**

**Bolivia, HelpAge UPR stakeholder report, 2009:** The lack of identity documents or having incorrect documentation makes it impossible to exercise their rights to full citizenship, access to health and income as guaranteed under the law. Sixteen percent of older people with identity documents have errors in these documents. 70% of these live in rural areas and 60% are women.

**7.9 Right to property**

**The Kyrgyz Republic, HelpAge shadow report to CEDAW Pre-sessional Working Group, 2014:** The Constitution of the Kyrgyz Republic states that*: “No one shall be subjected to discrimination on sex, race, language, disability, ethnicity, religion, age, political or other beliefs, education, origin, property, birth or other status, as well as other factors”.(Article 16, point 2).*

Property is usually registered with the husbands not the wives. In the case of divorce or the death of their husband, many older women are deprived of property which leads to poverty among women. According to Civil Code of the Kyrgyz Republic the right to inheritance has children, a spouse and parents of the testator in equal extent. The Family Code of the Kyrgyz Republic states that “Marriage is recognised if it is officially registered in the government bodies”. When women are married only in the traditional religious way, in their old age they have no proof of their marriage and therefore are denied this right. Below is the case when an older woman, 56 years old from one of the village if Issyk-Kul oblast, was forced from her house by her husband’s relatives.

*“I lived with my husband for 26 years, he was my second husband and we didn’t have any children together. My husband was ill for years and I looked after him . I couldn’t work while he was sick and when he died I had to sell a lot of my belongings to pay for his funeral. I also had to sell a lot before then to pay for his treatment. Our marriage was not officially registered so when my husband died his relatives came to kick me out of my house.”*

**Republic of Moldova, HelpAge shadow report to CEDAW, 2013:** In focus group discussions organised by HelpAge and Gender Centre in 2013 older women, and particularly those living in rural areas, mentioned that they have very low awareness about their right to property and are afraid of being deceived by the notary office or lawyers in transfer of their property. Due to low awareness about the property rights even children deprive the older women of their home and put them in institutions.

**Republic of Tanzania, HelpAge UPR stakeholder report, 2011 and shadow report to CEDAW 2008 :**

Existing laws that govern widows’ inheritance rights continue to a) contradict laws on the right to access to land and rights related to marriage, b) discriminate against women and girl children and c) are discriminatory in that different laws apply to different people. As mentioned above, disputes over property and inheritance are often the underlying causes of witchcraft allegations and violence against older women.

In its *Combined fourth, fifth and sixth periodic report of States parties*, 16 April 2007 (CEDAW/C/TZA/6) the Government states that it is currently reviewing discriminatory laws that prevent women from inheriting land and property[[78]](#footnote-78) and has put in place two land laws (Land Law Act No. 4, 1999 (also referred to as Land Act CAP 113 RE 2002) and the Village Land Act No. 5, 1999 (also referred to as the Village Land Act CAP 114 RE 2002) that reverse discriminatory customary practice over women’s rights to land[[79]](#footnote-79). Nevertheless, Local Customary Law (Declaration) Order No. 4 Cap.358 R.E 2002, which denies widows the right to inherit property on the death of their husband[[80]](#footnote-80) and is contradictory to the above land acts, remains in force. Customary law that permits widow inheritance by a relative of the deceased, and denies widows the right to custody of her children also remains in force[[81]](#footnote-81).

Denial of the right of a widow to inherit within customary law is also at odds with the spirit of the more progressive provisions in the Law of Marriage Act, 1971 regarding the division of marital property upon divorce. As a result a woman is granted more rights to marital property on divorce than on the death of her husband. A widow’s right to reside wherever she wishes on the death of her husband and to remain unmarried if she so chooses is also enshrined in the Law of Marriage Act, 1971 (Article 68).

There is no uniform inheritance law that applies equally to all Tanzanians, inheritance being governed by a series of laws[[82]](#footnote-82) that apply to individuals depending on their religion, tribal origin, or whether they live their lives according to customary practices.

Under this discriminatory system, individuals from different backgrounds are treated differently and confusion can arise over which system of law should govern the distribution of the deceased’s estate. Provisions for inheritance vary under each system: under customary law the widow cannot inherit the house and land; under Islamic law there is provision for minimal inheritance; and under the Indian Succession Act 1865 she can inherit 50%. This not only violates women’s right to equality under the Constitution and international law, but it also fails to take cognizance of the fact that Tanzania is an increasingly mixed and multi-cultural society, inter-marriages between tribes and religions are more common and the importance of the clan system is diminishing with increased migration and urbanisation. Attempts to apply different laws based on the factors that are becoming increasingly blurred is difficult, complicated, and creates confusion.

Despite committing to reviewing laws on *“succession, inheritance, customary, Marriage Acts and other laws that provide equal rights to children, women and men, girls and boys”* in the Mkukuta (Cluster 3, Goal 4, Laws and Gender 4.1.3), the Government has given no indication as to when the review of the inheritance and other discriminatory laws will be completed.

A survey of 480 women and men of all ages carried out by HelpAge International and its partners in 2005 demonstrated the confusion people had concerning the law and discrepancies between what people said happened in practice and what they believed the law to be. Despite existing customary law that denies widows’ right to inherit marital property, 70% of respondents thought they widows were legally entitled to inherit the house and land; 23% thought that widows could remain in the house without owning it and only 7% thought the law supported eviction[[83]](#footnote-83).

**Bolivia, HelpAge UPR stakeholder report, 2009:** Misappropriation of land and property is more and more common, particularly in the rural areas. Non-compliance with communal tasks on the part of older people is grounds for not providing water for irrigation, for fines, and finally the misappropriation of land by the community leaders (often young union leaders). If the union establishes at an assembly that the older person has surpassed the limit of non-compliance of obligations, a note is made and signed by all young leaders. This is presented before a judge that is obliged to issue a document that makes possible the annulment of the property title of the older person in favour of the union or a member of the union.

**7.10 Situations of heightened risk**

**7.10.1 Older prisoners**

**The Kyrgyz Republic, HelpAge UPR stakeholder report, 2014:** Older prisoners have limited access to social entitlements and benefits in Kyrgyzstan despite the fact that under the Law on state pension social insurance (July, 21, 19997) which says:

*“All insured citizens of the Kyrgyz Republic who made contributions to the state pension social insurance have the right to receive pensions” (Article 1).*

*“Insurance and accumulative parts of pension are paid to older people staying in boarding houses and prisons.”(Article 31, point1)*

*“Territorial bodies of Social Fund are obliged to provide consultations and assistance in applying necessary documents for pension.”(*Article 25, point1).

A study[[84]](#footnote-84) in 2011 showed that 100% of older prisoners are not aware about their rights to social security, specifically to a pension. Prison officials do not organize consultations for older prisoners with representatives of the Social Fund. The survey showed that 13% people of retirement age in the surveyed prisons were not receiving their pension and 18% did not know the whereabouts of their pensions that they got before. Payment of their pensions had been stopped while they are in prison. The survey found that 24% didn’t have labor records and this prevented them from getting a pension. 32% were not aware about whereabouts of their passports earlier taken by the investigator.

When older people are released from prison they have to face additional challenges. Because of a lack of residence registration, many have little or no access to employment, health care, social services and other public goods. Moreover, they are unable to address the restoration of documents, which prevents them from accessing health care, their pensions and other benefits they may be entitled to, employment and financial and other assistance.

**7.10.2 Displaced older people**

**Uganda, Joint NGO UPR stakeholder report, 2011:** The situation of older displaced people, particularly older women, and the barriers that they in particular are facing in return to their villages of origin and resettlement has not been adequately addressed by the Government.

HelpAge’s research in the camps in 2007 and 2008 showed that community and family support and respect for older women and men had been lost or eroded by experience of displacement and camp living[[85]](#footnote-85). As more able-bodied people are able to return to villages of origin, older women and men left behind represent a dramatically increasing percentage of the camp population. Many of those who do not return experience multiple disadvantages though isolation, abandonment, mental and physical disability, psychological trauma, malnutrition and poverty[[86]](#footnote-86).

Data from assessments of extremely vulnerable individuals (EVIs) eligible for UNHCR support in 2010 shows the high proportion of extremely vulnerable older women. In 5 sub-counties, 78% of all those identified as EVIs were women and men over 60[[87]](#footnote-87). This is an extremely high proportion relative to the total population over 60. Older people cited lack of shelter and concern over their physical capacity as the main reasons for not returning to their villages of origin[[88]](#footnote-88). Access to land during the resettlement process can be especially problematic for older women, as many cannot prove they once owned land or were entitled to it through a husband or father[[89]](#footnote-89). Dependence on food aid is a barrier to returning to villages of origin. With no other reliable source of income or livelihood, they are dependent on World Food Programme food aid and are extremely concerned about what will happen when humanitarian aid is completely phased out.

Another barrier to return is concern for dependants. Older women caring for grandchildren are reluctant to take them out of school and fear that they will lose the support they receive in the camps for school fees and materials[[90]](#footnote-90).

* + 1. **Older people affected by HIV and AIDS**

**Uganda, Joint NGO UPR stakeholder report, 2011:** While there is considerable effort by the Government of Uganda and other non-state development actors to prevent the spread of HIV, there are no explicit attempts made to target older people. It is assumed that older people are not sexually active. However research by URAA and HelpAge revealed that 64% of the older people are sexually active, of which 91 % never used condoms during sexual intercourse[[91]](#footnote-91). In addition, research also suggests that many of the older people are not aware of how to prevent which ultimately leaves them at risk of infection. This risk is clearly demonstrated by the very low rate of condom use among older people. In addition, older people face some specific vulnerabilities. Older women going through menopause experience a thinning of the virginal walls which can increase the risk of injury during sexual intercourse and therefore also the risk of contracting HIV. Older people also need to know how to provide care safely to people living with HIV, and need access to appropriate resources to do this, including gloves.

The Government of Uganda in collaboration with development partners have rolled out an Anti-Retroviral Therapy (ART) strategy to improve the health and quality of life of people living with HIV. By August 2008, about 1.1 million people were living with HIV and about 312,000 were in need of Anti-Retroviral (ARVs). However, only 130,000 patients were receiving ARVs. This represented 43% of the total number of people in urgent need of ARVs in Uganda[[92]](#footnote-92).

There is no data on the number of older people accessing ARVs. Since many older people do not know their HIV sero status and the fact that there is no deliberate strategy by government to enable access to different services, one may conclude that very few older people are accessing ARV services.

It is worth noting that as ARVs become more available and affordable, an increasing number of people living with HIV will survive beyond 50 years of age. Therefore, it is anticipated that more older people will require ARVs in the near future. It will be crucial to gain a better understanding of how health issues related to both ageing and HIV interrelate, and of the interaction of ARVs and drugs for other health conditions related to ageing. Access to ARVs by older people is a critical need which must be addressed by policy makers and implementers in Uganda.

As with other population groups, counselling and testing provide an entry point for older people to access treatment and other HIV related services. Counselling and testing has been one of the core strategies for HIV prevention and treatment in the country since the start of the response to HIV in Uganda. Both Government and non-governmental agencies provide counselling and testing services on a demand driven basis. URAA and HelpAge’s experience of working on older people and HIV issues shows that very few older people access VCT services due to:

* Lack of awareness of their risk of infection and need to know their HIV status
* Insufficient information on availability of VCT services for older people
* Lack of a deliberate VCT strategy for older people
* Stigma associated with discovering the sero-status
* Long distances to VCT facilities

Older people play a key role in providing care and support to people living with HIV and children orphaned as a result of AIDS. The latest national level data from the World Bank shows 49.2% of double orphans in Uganda are being cared for by a grandparent and the average age of the grandparent is 67 years[[93]](#footnote-93).

It has been reported that that the burden of looking after orphans and people living with HIV coupled with limited economic activity has put a lot of stress on older people and impoverished them almost to the extent of destitution[[94]](#footnote-94). Most adults who die of AIDS-related illnesses have parents who survive them and who are often psychologically and economically affected by illness and death of their children. The death of older people’s children does not only mean loss of a dear one and additional parenting responsibilities and care burden of orphans but also loss of social protection. Despite this, older people are left out of care and support responses and programmes. Many lack skills in home based care and caring for orphans. The home based care guidelines being developed by Ministry of Health and UAC are therefore overdue.

While there is considerable effort by the Government of Uganda and other non-state development actors to prevent the spread of HIV, there are no explicit attempts made to target older people. It is assumed that older people are not sexually active, however research by URAA and HelpAge revealed that 64% of the older people are sexually active, of which 91 % never used condoms during sexual intercourse[[95]](#footnote-95).

In addition, research also suggests that many of the older people are not aware of how to prevent which ultimately leaves them at risk of infection. This risk is clearly demonstrated by the very low rate of condom use among older people. In addition, older people face some specific vulnerabilities. Older women going through menopause experience a thinning of the virginal walls which can increase the risk of injury during sexual intercourse and therefore also the risk of contracting HIV. Older people also need to know how to provide care safely to people living with HIV, and need access to appropriate resources to do this, including gloves.

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Bridget Sleap, HelpAge International, July 2015

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