



Mandate of the Independent Expert on the Question of Human Rights and Extreme Poverty

Concept note for the preparation of the report on human rights and social protection for older persons

I. Background

In resolution 8/11 (2008) the United Nations Human Rights Council requested the Independent Expert on the question of human rights and extreme poverty to examine, advise and publicly report on the relationship between the enjoyment of human rights and extreme poverty, paying particular attention to the situation of vulnerable groups and the impact of discrimination. The resolution also calls on the Independent Expert to submit recommendations on the realization of the Millennium Development Goals, in particular Goal No. 1, and to collaborate with other stakeholders in the fulfilment of her mandate.

The Independent Expert is required to submit annual reports to the UN General Assembly and the Human Rights Council, and to undertake country visits to investigate the situation of human rights and extreme poverty at the national level.

In discharging her mandate, the Expert decided to focus her analysis on monitoring the compliance of specific public policies aimed at eliminating extreme poverty with human rights standards.¹ In particular, she identifies good practices in order to provide concrete recommendations on how to strengthen poverty reduction efforts from a human rights perspective. In this regard, the Expert's first thematic report focused on cash transfer programs (A/HRC/11/9) and her second thematic report discussed the importance of social protection in light of the impacts of the economic and financial crisis (A/64/279). As part of the mandate she has visited Ecuador (November 2008), and Zambia (August 2009) and she is expected to visit Bangladesh (December 2009). In both Ecuador and Zambia, she conducted a comprehensive assessment of existing social protection programs including cash transfer programs.²

The living conditions of older persons are seldom discussed from a human rights perspective at the United Nations level.³ The report of the Independent Expert is intended to fill this gap and raise awareness of human rights bodies on the situation of older persons, in particular among mechanisms focusing on the protection of economic, social and cultural rights. Beyond developing this thematic report, the independent expert will continue looking at this issue in future country visits.

1 For more details on the Expert's plans for the mandate see A/63/274, of 13 August 2008.

2 All reports by the Independent Expert are available at:
<http://www2.ohchr.org/english/issues/poverty/expert/index.htm>

3 One of the few exceptions is General Comment No 5 (1995) of the Committee on Economic, Social and Cultural Rights. See E/1996/22.

II. Scope: social protection in old age

The Expert intends to study the role that social protection systems play in reducing extreme poverty and contributing to the realization of human rights of older persons, in particular programmes aimed at their income security such as old age non contributory pensions. In this context, the Expert will focus on the provision of non contributory cash benefits received by persons above a given age whether or not additional criteria are tied to receiving the benefits.

The world population is ageing, to the point that the number of persons over 60 years of age is likely to increase by 200 percent by 2050. The phenomenon of poverty in old age is increasingly catching the attention of analysts and policy-makers. Yet, knowledge of its nature, gravity, and consequences both for older persons and for members of their households are not yet fully appreciated. The reviews of the Madrid World Assembly on Ageing and of the implementation of the Millennium Development Goals present an important opportunity to discuss ways and means of tackling poverty in old age.

The current global financial crisis not only revealed the weaknesses of market dependent pensions – where loss of value has left many at risk of falling into poverty, but it also showed how vulnerable poor populations are to shocks when they cannot access social protection. An estimated 80% of the world does not benefit from any form of social security benefit. In this context, a renewed interest in the design and implementation of social protection programs has been emerging. For example, the ILO and the WHO are leading a movement by UN agencies to promote a "Social Protection Floor" aimed at providing a universal minimum of social protection benefits at the country level.

Ensuring the provision of pensions in old age is consistent with the realization of several human rights enshrined in international treaties, in particular, the rights to social security and an adequate standard of living. Old age benefits are probably one of the best understood components of social security. They feature as a branch of social security according to the ILO Convention 102, and the Committee on Economic, Social and Cultural Rights (CESCR) recognizes them within the core content of the right to social security.⁴

The capacity of older persons to maintain an adequate level of income security often depends on their health status, as they are more vulnerable to ailments and chronic diseases. Older persons especially require access to social services and essential medicines, adequate food and nutrition, safe access to water and sanitation, access to care services. In the meantime, care and support by families and communities cannot be taken for granted as it has been in the past. Ageing poses many challenges for States in the development of policies that take into account all aspects of the quality of life of older persons, not only that of income security.

Human rights standards call for the expansion of initiatives that increase access to social security and inform how the expansion of social security should be carried out. To date, a majority of States rely only on contributory systems of social security. This leaves the majority, particularly those who have been living in poverty or extreme poverty, excluded

⁴ CESCR, *General Comment 19, on the right to social security*. E/C.12/GC/19, 4 February 2008.

from any sort of social security once in old age. In the past decade, a number of countries have implemented temporary or permanent social protection programs, including old age non contributory pensions. This is helping to unravel the myth that developing countries are not in a position to provide social security.

III- Objectives

The report of the Independent Expert on human rights and income security will be submitted to the 14th session of the Human Rights Council in June 2010. The aim of the report is two fold:

1. Analyzing the impact of social protection schemes, in particular old age non contributory pensions, on the enjoyment of human rights by older persons. The analysis will focus on the impact of existing programs on the enjoyment of human rights by older persons as well as other indirect beneficiaries of the pensions, who live in extreme poverty.

2- Advising on the integration of a human rights based approach to social protection schemes, in particular, old age non contributory pensions. The report will address how human rights standards, as established in major human rights treaties, as well as other United Nations documents for older persons (e.g. Madrid International Plan of Action on Ageing (2002) and United Nations Principles for Older Persons (UNGA resolution 46/91)) apply to non contributory pensions. It will provide recommendations on how to include a human rights-based approach to the design, implementation and evaluation of these programs.

IV- Main concerns

In order to better understand how to provide social protection for older persons from a human rights perspective, the Expert will compile information on:

- The nature of old age poverty and specific risks facing older persons, relevant human rights standards for the provision of pensions in old age (including ILO standards), the affordability of providing income security in old age, the role played by social protection schemes other than pensions (for example in-kind benefits such as user fee exemptions and subsidised services aimed at guaranteeing access to health services and essential drugs, housing support including access to water and sanitation, life-long education, social work and care services).
- Legal and institutional frameworks sustaining existing programs, including the interplay between contributory and non-contributory pensions, whether non-contributory pensions strengthen or undermine the contributory pension system, the funding of old age pensions (contributory and non contributory pensions, tax funding etc.).
- Targeting criteria where relevant and appropriate means of identifying and registering age.
- Mechanisms for the participation of older persons in the development of programs.

- Appropriate delivery/implementation mechanisms which respect the rights of older persons.
- Existing monitoring mechanisms and available complaints procedures, and the access for beneficiaries to both.
- Gender-related issues addressed by the programs.
- The possible impact of the programs on children and the intergenerational transmission of poverty.

V – Developing the report

The preparation of the report will rely on the contribution of entities implementing and evaluating social protection systems in different regions of the world. Government actors and civil society are invited to provide information on their evaluation of existing initiatives. The Expert will also seek to focus on these programs during her country visits.

The following activities are planned by the Expert:

- **Desk review of relevant information** – Government, international organizations, research centres and civil society entities produce extensive studies on social protection for older persons. The Expert calls for the submission of relevant reports and will work to compile and analyze the existing knowledge when drafting her report.
- **Expert Meeting** –An expert meeting gathering academics and professionals working in the areas of development, ageing and human rights will contribute to the development of the report. The meeting will gather representatives from different regions, including professionals involved in the implementations of old age pensions.
- **Country missions** - The Expert will take advantage of her country missions to collect information relating to ongoing initiatives concerning social protection for older persons. The visits will offer an opportunity to carry out thorough analysis of the social protection measures targeted at older persons and the development and implementation of old age non contributory pensions and their processes. Secondly, it will allow the Expert to have direct interaction with those responsible for its implementation at all levels as well as its beneficiaries. The Expert may also undertake trips to participate in conferences and other events to discuss the issues addressed by the report.
- **Distribution of a government questionnaire** - A questionnaire will be prepared in order to collect detailed information on the different initiatives implemented around the world by governments.