

Questionnaire on Situation of the Rights of Older Persons
Answered by Afghanistan Independent Human Rights Commission (AIHRC)

Question 1: Please provide information on the current situation of the human rights of the older persons, including particular challenges and threat that may prevent the full realization of their rights

According to the Islamic obligation and traditional culture, older parents are taken care by their elder sons and daughters. In accordance with Holy Koran, respecting and protecting older parents is one of the religious obligations of every young son/daughter. According to Islamic Sheria, the elder sons, after the death of their parent, are responsible even to pay due loan of his parents, if they were due loan from someone and have not been able to pay it during his/her life.

Those older person, who have no children or they are very poor, are cared by their far relatives in villages. Homeless older men are accommodated in a free room in a village or kept in a mosque and feed by villagers based on charity. If an older women who has no son neither daughter or groom, she is cared by one of her far relatives. Generally, poor and destitute older persons maintain their livelihood based on people's religious charity.

In cities, a number of very poor and destitute older persons live on begging on the street and crowds. The government has no adequate facilities so far to accommodate and feed destitute and homeless older persons, except in a few provinces in a poor modest situation.

Afghan civil society organizations have not yet developed such programmes to address the needs of destitute older persons as is common in industrial countries.

Older persons in rich and middle class families have no problem of caretaking and livelihood. Older persons, traditionally, play leading role among their families and community. At rural level, older persons are the key negotiators for local dispute resolution. Older persons are also the key players of observing traditional culture/ceremonies.

Poor older persons are suffering from illness and lack of proper care at family and society level. Poor children are not able to adequately address the health care and proper living facilities of their parents. Despite that in accordance with the provision of Afghanistan's Constitution, health care and medical treatment are free for all citizens regardless of their age and gender, but due to poor national economy, the government is not able to adequately address the health care needs and treatments of poor older persons.

Question 2: Please provide information on existing legislation, policies and programmes to protect and promote the human rights of older persons.

The Afghanistan Constitution has adopted equal rights for all citizens, regardless of their age and gender. The Article 22nd of the Constitution reads the following:

“Any kind of discrimination and distinction between citizens of Afghanistan is forbidden. The citizens of Afghanistan, man and women, have equal right and duties before the law.”

No laws, policies and programmes yet addressed particularly the rights of older persons in Afghanistan.

Only in the Article Fifty Three of the Afghanistan’s Constitution, we read the following:

“The state shall adopt necessary measures to regulate medical services as well as financial aid to survivors of martyrs and missing persons, and for the rehabilitation of disabled and handicapped and their active participation in society, in accordance with provision of the law.

The state shall guarantee the rights if retirees, and shall render necessary aid to the elderly, women without caretaker, disabled and handicapped as well as poor orphans, in accordance with the provision of the law.”

There is positive discrimination in the legislation for older prisoners, e.g. whenever a prisoners whose age is over 65, he/she is released from the jail, regardless of whether he/she has completed its sentence or not. Also those older man of over 65, his son is not obliged to pass compulsory military service if he is the only son of his father and has no young brother, because the son is culturally and legally obliged to take care of his old father. The man whose father had died and he has no elder brother, he is not recruited for passing compulsory military service because he is responsible to take care of his mother.

Question 3: Please provide on existing legislation , policies and programmes that to address discrimination against older persons , including measures to address multiple discrimination (e.g. discrimination based on age and gender)

There is no such legislation. Policies and programmes so far available in Afghanistan to address discrimination against older persons. All legislations in Afghanistan somehow equally address the rights of all citizens.

Question 4: Please provide existing legislation, policies, or programmes to address violence and abuse against older persons in the private public spheres.

There is no specific legislation, policies and programmes to address violence and abuse against older persons in the private sphere. As other countries, labour market in Afghanistan prefers the qualitative and quantitative ability of a person in recruitment. Religion and culture, in the informal justice system, always address the violence and abuse of the rights of older person at community level.

Question 5: Please provide information on existing legislation, policies and programmes addressing age sensitive services and facilities, such as those related to mobility, age adequate design, long-term care , primary health care and adult and continuous education.

Although there is no legislation, policies and programmes exist to address age sensitive services and facilities, except for person with disabilities, but this is the obligation of families to take care of older parents, and provide them with necessary services and medical care. According to cultural values in Afghanistan, it is a great privilege and honor for those sons and daughters or grandsons, who highly respect, take care and also live with their parents, particularly when they are older.

Question 6: Please provide information on existing legislation, policies and programmes and concerning social protection measures as well as the right to works and social security with regards to old persons.

According to the Law of Civil Service, the retiring age for both man and women, is 65 for government employees, but man and women of over sixty five can work at private companies. Those who are running their own private business, have no age limit. The retirees government employees are paid pension salary, and even if he or she died, his/her pension salary is paid to his/her spouse and their under aged children until they become young, over 18. Those who have not been employed by government department, including security departments, official banks or big companies, are not paid pension salary. There no social security assistance available for older persons, poor/destitute and jobless people except for government employees who have retired or became disabled during duty term.

Question 7: Please provide information on existing legislation, policies, programmes and capacities to systematically collect, update and analyze information as aggregated by age.

Only the Central Statistic Organization of Afghanistan gathers limited statistical information on age base.

Question 8: Please provide information on existing legislation, policies, programmes to enhance participation and active engagement of older men and women in community , political and cultural life.

At the moment, there is no legislation, policies and programmes, addressing the enhancement of active engagement of older persons in community, but traditionally older persons are highly respected both in rural and urban community. They have positive role in community mobilization and community work management.

Question 9: Please provide information on existing legislation, policies, programmes to ensure access to justice and judicial remedies for violation of the rights of older persons, including reference to specific mandate on institution such as national human rights institutions to address their rights.

Although there is no specific legislation, policies and programmes to address their access to justice and judicial remedies, but, in accordance with the legislations in Afghanistan, older persons have the same rights to justice as others. If older persons, due to physical or mental impairment, were not able to proceed their complaints in judicial department or defend their rights in court, their children or their relatives help them.

Since denial of the rights of older persons is not a serious concern now in Afghanistan, therefore, the Afghanistan Independent Human Rights Commission (AIHRC) has not yet specifically addressed the rights of older persons because old persons are much supported by their children and relatives. In the future, since much change, at the family and society level, living style..., will be anticipated in the future, as we see now in western culture, the AIHRC will have to consider the se issues.