

Distr.: General 31 March 2010

Original: English

Human Rights Council Fourteenth session Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

## Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona\*

Summary

In this report, submitted in accordance to resolution 8/11, the independent expert focuses on non-contributory pensions or so-called social pensions. Social pensions consist of cash benefits received by persons above a given age that do not require prior compulsory contributions from beneficiaries, employers or the State. Social pensions are an important dimension of social security systems. States are obliged progressively to ensure the right to social security and the right to an adequate standard of living to all individuals within the country. These rights are enshrined in the Universal Declaration of Human Rights and several international human rights treaties and International Labour Organization conventions. Considering the vulnerability of older persons, States must take appropriate measures to establish social security schemes that provide benefits to all older persons without discrimination of any kind and ensure equal rights for men and women. Today, large proportions of the population work outside the formal employment sector and traditional informal support systems for older people are changing under the pressure of increased longevity, widespread poverty, the impact of HIV/AIDS and migration. Contributory pension schemes (e.g. employment-based pensions) do not reach all older persons. Therefore, States must recognize that social pensions are critical elements for the progressive realization of the right to social security for older people. Non-contributory pensions can significantly reduce poverty and vulnerability among old people, in particular for women, who live longer and are less likely to benefit from contributory systems. The report provides recommendations on how to ensure that non-contributory pensions comply with core human rights standards. It also addresses the role of international assistance and cooperation in the field of social security.

\* Late submission.

GE.10-12583 (E) 010410 230410



#### A/HRC/14/31

## Contents

			Paragraphs	Page
I.	Intr	Introduction		3
II.	Poverty and old age		8–25	4
	A.	Ageing and its repercussion for social policies	8-12	4
	В.	Determinants of poverty among older persons	13–18	5
	C.	Poverty among older women	19–21	6
	D.	Old-age poverty and migration	22–23	6
	E.	Old-age poverty and HIV/AIDS	24–25	7
III.	Soc	ial protection and old age	26–36	7
IV.	Human rights framework		37–50	9
	А.	The right to social security in human rights and labour standards	41–46	10
	B.	Obligations under the International Covenant on Economic, Social and Cultural Rights	47–50	11
V.	Expanding social security in old age in the context of a human rights framework		51–97	11
	A.	Recognizing the right to social security, including the right to non-contributory pensions	53–57	12
	B.	Ensuring equitable access to social security and paying special attention to vulnerable and disadvantaged groups	58–71	12
	C.	Ensuring accessibility	72–75	15
	D.	Ensuring transparency and access to information	76–78	15
	E.	Ensuring accountability	79–82	15
	F.	Respecting the principle of participation	83-86	16
	G.	Ensuring the adequacy of the benefits	87–89	17
	H.	Ensuring access to health care	90–94	17
	I.	Ensuring gender equality	95–97	18
VI.	The role of international assistance and cooperation		98–103	19
VII.	Conclusions and recommendations		104–116	20

## I. Introduction

1. The current report is submitted by the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona, in accordance with Human Rights Council resolution 8/11. The report reflects the expert's work in analysing how specific poverty reduction strategies, in particular those related to the area of social protection, comply with human rights standards.

2. Since her previous annual report to the Human Rights Council (A/HRC/11/9) which focused on a human rights approach to cash transfers programmes, the independent expert submitted a report to the General Assembly (A/64/279) analysing the impact of the global financial crisis on the human rights situation of people living in extreme poverty. It highlighted the urgency of establishing and enhancing solid social protection systems to address the impact of the crisis.

3. The independent expert visited Zambia (August 2009) and Bangladesh (December 2009). In both countries, she comprehensively assessed existing social protection programmes, including cash transfer schemes. In September 2009, she took part in the Social Forum of the Human Rights Council, where she discussed the role of social protection systems. During the reporting period, the expert also participated in numerous events and held working meetings with Governments, United Nations agencies, donor agencies, academic institutions, NGOs as well as representatives of people living in poverty. In accordance with resolution 12/19 (October 2009) of the Human Rights Council, she is also preparing a progress report on ways to improve the draft guiding principles on extreme poverty and human rights, to be presented at the fifteenth session of the Human Rights Council.

4. This report focuses on the role that non-contributory pensions or social pensions<sup>1</sup> play in reducing extreme poverty and contributing to the realization of human rights of older persons. It also examines how a human rights perspective can be integrated into the design, implementation and monitoring of these initiatives. Social pensions consist of cash benefits received by persons above a given age that do not require prior compulsory contributions from beneficiaries, employers or the State.

5. To collect information to prepare this report, the independent expert sent a questionnaire to Governments requesting information on their social pensions for older persons. The questionnaire addressed: (i) the legal and institutional framework; (ii) the schemes costs and coverage; (iii) implementation procedures; (iv) monitoring mechanisms and complaints procedures; and (v) studies and evaluations. As of 10 March 2010, 45 countries had responded;<sup>2</sup> all submissions are available on the webpage of the mandate.<sup>3</sup>

6. The report also benefits from a review of the existing literature on the topic of oldage poverty and an expert meeting convened by the expert and organized by the Office of the United Nations High Commissioner for Human Rights, with the support of HelpAge International and the Friedrich Ebert Stiftung, on 8–9 February 2010. Twenty five experts

<sup>&</sup>lt;sup>1</sup> The report uses the two expressions interchangeably.

<sup>&</sup>lt;sup>2</sup> Albania, Algeria, Argentina, Armenia, Australia, Belarus, Brazil, Canada, Costa Rica, Cyprus, Dominican Republic, Estonia, Finland, France, Georgia, Germany, Greece, Iraq, Japan, Kazakhstan, Luxembourg, Mali, Mexico, Moldova, Monaco, Montenegro, Nepal, Oman, Qatar, Republic of Korea, Romania, Serbia, Singapore, Slovak Republic, Slovenia, Spain, South Africa, Switzerland, Syria, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Ukraine, Venezuela (Bolivarian Republic of) and Zambia.

<sup>&</sup>lt;sup>3</sup> http://www2.ohchr.org/english/issues/poverty/expert/index.htm.

from governments, NGOs, United Nations agencies and academic institutions attended the meeting and contributed to the independent expert's evaluations on social pensions.

7. The independent expert wishes to express her gratitude to all States that submitted information and to the experts and NGOs that supported this process and assisted in the preparation of this report. She will continue to consider the topic of old age and poverty in future mission reports.

### **II.** Poverty and old age

#### A. Ageing and its repercussion for social policies

8. There is an urgent need to understand the implications of increasing longevity in the world. The population aged over 60 is expected to rise from 737 million persons in 2009 to over 2 billion in 2050.<sup>4</sup> Those older than 80 years represent the fastest growing segment of all societies. Moreover, older women increasingly outnumber older men as their ages increase.

9. The proportion of older persons is growing fastest in developing countries. In South East Asia, the percentage of older persons will have increased to 10 per cent by 2025 and 19 per cent by 2050. In South Asia, it is projected that the older population will have increased by 350 million between 2000 and 2050. This is more than five times the increase of 66 million from 1950 to 2000. Older persons constituted less than 7 per cent of the increase in population from 1950 to 2000 but will account for 20 and 62 per cent of the increase from 2000 to 2025 and from 2025 to 2050 respectively.<sup>5</sup> In Africa, the pace of growth of the older persons' population is slower, but nevertheless the number of persons aged 60 or above is set to quadruple: from 47.9 million in 2005 to 206.8 million by 2050.<sup>6</sup> In Latin America and the Caribbean, about 24 per cent of the population will be 60 or over by 2050, with the most rapid growth occurring among the "oldest old", those aged 80 or above. By 2050, there will be more people aged over 60 than under 15 years of age.<sup>7</sup>

10. Integrating ageing populations in policymaking is not just a question of financing welfare policies. It requires a change of vision of the relations between generations and the roles of different age groups. States should not rely on the traditional vision that families will take care of older persons that have become dependent, especially as traditional family care structures are under increased pressure as a result of, inter alia, migration and urbanization. States have a duty towards older persons that must not be reduced to a question of affordability.

11. The international community has committed itself to addressing the challenges associated with ageing in three documents: the Vienna International Plan of Action on Ageing (1982), the United Nations Principles for Older Persons (1991) and the Madrid International Plan of Action on Ageing (2002). These documents complement the existing human rights and labour standards which establish legally binding obligations upon States.

<sup>&</sup>lt;sup>4</sup> See A/64/127, para. 3.

<sup>&</sup>lt;sup>5</sup> Ghazy Mujahid and K.A.P. Siddhisena, "Demographic Prognosis for South East Asia – A future of rapid ageing", Papers in Population Ageing, No. 6 (Bangkok, United Nations Populations Fund (UNFPA), 2009), p. 9.

 <sup>&</sup>lt;sup>6</sup> Regional Dimensions of the Ageing Situation (United Nations publication, Sales No. 08.IV.1), p. 25.
<sup>7</sup> Ibid., p. 27.

12. The overarching goals of the Madrid Plan of Action on Ageing include ensuring the full enjoyment of economic, social and cultural rights, and civil and political rights by older persons and the elimination of all forms of violence and discrimination against older persons; achieving gender equality for older persons through inter alia eliminating gender discrimination; and providing quality health care, support and social protection for older persons. The Plan of Action combines a statement of political will with practical recommended actions for States. Given their specificity and level of detail, these are vital tools to guide a State in implementing its political and legal commitments.

#### **B.** Determinants of poverty among older persons

13. Assessing poverty among older people is a complex exercise, and several factors cause household surveys to underestimate poverty among older persons.<sup>8</sup> For example, there is a lack of understanding of the dynamics of dependency upon different family members. Disaggregated data on this issue is lacking, which leads to a lack of understanding of how income is distributed within a household and of the specific situation of older persons within that household. Measures of old-age poverty that rely on household income ignore the fact that in many multigenerational households resources are allocated disproportionately towards children and those of working age.

14. Difficulties in assessing poverty among older people are particularly problematic from a human rights perspective. They result in weaker knowledge of the specificities of old-age poverty, which most likely leads to policy choices that ignore and possibly exclude older people living in extreme poverty.

15. While increased longevity is a worldwide phenomenon, the elderly population is by no means uniform, and risk factors for poverty are multiple depending on the country and on personal situation. Core factors include: lack of access to regular income and work and health care, declining physical and mental capacities, and dependency within the household.

16. As people grow older, they tend to be progressively excluded from the formal and informal work markets by employers who prioritize a younger workforce. At the same time, they are often not protected by social security systems (addressed below). Without access to work or income, the poorest tend to depend on others for their survival or have to seek less secure sources of income (often begging or undertaking menial work). Research indicates that the older persons who manage to enter and remain in the workforce occupy less attractive jobs, with lower pay than people of prime age.<sup>9</sup>

17. As people age, they become frailer and their need for health-care services is likely to increase. Such needs incur costs that older persons cannot always cover adequately. For example, when user fees are imposed on health-care services, older persons without a reliable income may not be able to access these services. In these contexts, many may fall into a vicious cycle where poor health engenders poverty and poverty engenders poor health.

18. Households with children headed by older persons and households consisting only of older persons, in particular single women, tend to be more vulnerable to poverty. The

<sup>&</sup>lt;sup>8</sup> Robert Holzmann, David A. Robalino and Noriyuki Takayama (Eds.), *Closing the Coverage Gap* (Washington, D.C., World Bank, 2009), p. 41.

<sup>&</sup>lt;sup>9</sup> Leonardo Gasparini, Javier Alejo et al., "Poverty among the Elderly in Latin America and the Caribbean", Background paper for the World Economic and Social Survey, 2007: The World Ageing Situation.

occurrence of poverty is particularly high in countries with large migratory trends and in countries hit by the HIV/AIDS pandemic. Single older persons tend to be poorer in both developed and developing countries.<sup>10</sup>

#### C. Poverty among older women

19. Older women are disproportionately disadvantaged: they are marginalized due to their age and tend to be poorer than men. Because of gendered discrimination patterns throughout their life, women are often in a situation where they have accumulated lesser wealth than men. Cultural practices of early marriage and women's longer life expectancy than men worldwide<sup>11</sup> lead to a situation where women are more likely to be widows than men, and being widowed puts older women at higher risk of being poor. In many countries, women have limited access to land and other assets. For example, in India, 60 per cent of older women (compared to 30 per cent of older men) have no valuable assets in their name and research indicates that few female widows can count on family or community support.<sup>12</sup> In urban China, poverty rates are three to four times higher among older women than among older men.<sup>13</sup>

20. Most older women are excluded from formal social security and health insurance schemes as these are linked to paid, formal-sector employment. In developing countries, the great majority of women work all their lives in the informal sector or unpaid activities. In developed countries too, older women are more likely than men to be poor at old age. On average, in European Union countries, older women have a poverty risk rate of about 22 per cent as compared to 16 per cent for older men.<sup>14</sup> They are less likely to receive a large contributory pension since they are more likely to have stopped work at some point over their lifetime to take on the burden of child rearing and are also more likely to have received lesser wages for their work than men.

21. Older women are not only more likely to be poorer than men, but they are also likely to be burdened with caregiving responsibilities for other family members, especially their grandchildren. In some countries, accusations of witchcraft against poor older women are common, revealing worrying discriminative patterns.

#### **D.** Old-age poverty and migration

22. In many parts of the world, the widespread migration of younger generations to the cities challenges the idea that the active generation will support their elders. In the rural regions of many Asian countries, urban migration is causing a substantial decrease of corresidence of older persons with their younger families. The same phenomenon is documented in African countries.<sup>15</sup> Having to rely on their children that have moved

<sup>&</sup>lt;sup>10</sup> *Closing the coverage gap*, pp. 45–46.

<sup>&</sup>lt;sup>11</sup> World Health Organization, Women Ageing and Health: A Framework for Action, Focus on Gender (Geneva, WHO, 2007), p. 3.

<sup>&</sup>lt;sup>12</sup> Closing the Coverage Gap, p. 51; see also United Nations Research Institute for Social Development (UNRISD), Report of the Public Conference on Ageing Development and Social Protection, 2002, pp. 13–14.

<sup>&</sup>lt;sup>13</sup> UNFPA, Demographic Change in China: Ageing of the World's Largest Population, Papers in Population Ageing, No. 4 (UNFPA, 2007), p. 20.

<sup>&</sup>lt;sup>14</sup> Ashgar Zaidi, "Poverty Risks for Older People in EU Countries – An Update" (European Centre for Social Welfare Policy and Research Policy Brief, Vienna, 2010), p. 8.

<sup>&</sup>lt;sup>15</sup> *Regional Dimensions of the Ageing Situation*, p. 22.

nationally or internationally is often a risk for older persons. Often, financial support provided by children becomes irregular and insecure, even though they may still be asked to care for grandchildren.

23. Migrants can also be at risk of losing income in their old age. While persons who have migrated to work in their adulthood may have contributed to pension systems where they worked, when they retire and return to their countries of origin they are unable to reap the benefits of their prior contributions.

#### E. Old-age poverty and HIV/AIDS

24. The HIV/AIDS epidemic impacts on older persons in two ways. First, mostly middle-aged people die from the disease and older persons are more likely to be left without the care and support of their children. Second, they also may become the primary caregivers to their orphaned grandchildren.

25. Sub-Saharan Africa is home to 26 million of the 40 million persons living with HIV/AIDS worldwide and is subsequently the region with the highest number of households with a generation gap. In Namibia, South Africa and Zimbabwe, 60 per cent of AIDS orphans live with their grandparents.<sup>16</sup>

## **III.** Social protection and old age

26. As detailed in the expert's previous reports,<sup>17</sup> social protection is defined as encompassing a wide range of policies designed to address the risks and vulnerabilities of individuals and groups, irrespective of whether they can or cannot work. It seeks to help them cope with, and overcome, situations of poverty, especially when they result from circumstances outside of their control. Social protection systems are generally structured around three important objectives for poverty elimination: (i) facilitating recovery from crises that have led people to become poor; (ii) contributing to the ability of chronically poor people to emerge from poverty; and (iii) supporting the less active poor (such as the elderly, persons with disabilities and children) so that their poverty will not be inherited by the next generation. Governmental entities are the main providers of social protection, but often civil society entities and the private sector also contribute.

27. Social protection systems can help realize a full range of rights. International human rights instruments generally do not use the term "social protection".<sup>18</sup> Instead they establish the right of everyone to "social security, including social insurance". Beyond ensuring the right to social security, States' duty to implement social protection systems also flows from the right to an adequate standard of living and a number of related economic and social rights enshrined in several legally binding human rights treaties.

28. Social protection can be divided in two main segments: social insurance and social assistance. Social insurance refers to all contributory insurance schemes providing prespecified support for affiliated members in the event of contingencies such as injury, sickness, disability and old age. Social assistance encompasses all initiatives providing both cash and in-kind assistance to those living in poverty; these are often financed by general taxation revenues or external aid. Social pensions consist of cash benefits received by

<sup>&</sup>lt;sup>16</sup> Ibid., p. 24.

<sup>&</sup>lt;sup>17</sup> See A/HRC/11/9 and A/64/279.

<sup>&</sup>lt;sup>18</sup> An exception is the Convention on the Rights of Persons with Disabilities which sets out a right to social protection (art. 28).

persons above a given age without the requirement of compulsory contributions; they are essential components of social assistance. Contributory and non-contributory schemes should be regarded as complementary and mutually reinforcing aspects of social protection.

29. Traditionally, States have privileged the establishment of contributory pension systems with the objective of achieving universal coverage once the formal sector expanded. Today, with a vast number of workers in the informal sector, this approach must be re-examined. Contributory systems have left the majority of the population unprotected when they reach old age. Estimates indicate that less than 20 per cent of older persons are covered by pensions today and only about 25 per cent of the labour force is currently contributing or accruing pension rights.<sup>19</sup>

30. This coverage gap particularly affects those living in extreme poverty. It is in countries with lower GDP per capita and among the least educated that coverage rates of existing contributory social security systems are lowest. Contributory systems cover 85 per cent of the labour force in almost all high-income member States of the Organization for Economic Cooperation and Development (OECD),<sup>20</sup> but in several countries in sub-Saharan Africa, coverage can fall to below 5 per cent of the workforce.<sup>21</sup> Even middle-income countries of Latin America that had established social security systems covering a significant proportion of the population saw coverage rates declining in the last decades following the liberalization of labour markets.<sup>22</sup>

31. Even in developed countries, contributory systems are often inadequate to protect the elderly: often benefits are too low to cover costs of living. Moreover, legislation related to compulsory retirement age can make it impossible for some older persons to find additional sources of income.

32. In the absence of contributory social security, social assistance and, in particular, the provision of non-contributory pensions to older persons plays a central role in bridging the existing protection gap. Studies conducted in countries that have established non-contributory schemes demonstrate their positive impact on poverty indicators. In OECD countries with good coverage of formal insurance and the longest experience in investing in this type of pension, poverty rates would be significantly higher without non-contributory schemes. The same is true for middle-income countries that have also invested in social pensions during recent decades.<sup>23</sup>

33. Social pensions are also important for addressing the particular vulnerabilities of women. Contributory systems tend to exacerbate gender inequalities: in many countries coverage rates for elderly men are twice those for their female counterparts.<sup>24</sup> Even in countries with broader protection in contributory systems, older women are more likely to receive a lower pension due to a lower level of contributions (see sect. II C).

34. The benefit of social pensions may also reach beyond their direct beneficiaries and assist family members of the older person and any children in their care. In AIDS-affected countries, for example, where older persons are the primary caregivers of children orphaned by AIDS, social pensions may impact positively on child well-being. A study in South Africa found that children living with pensioners are, on average, 5 centimetres taller and

<sup>&</sup>lt;sup>19</sup> Closing the Coverage Gap, p. 23.

<sup>&</sup>lt;sup>20</sup> Armando Barrientos, "New strategies for old-age income security in low income countries" (International Social Security Association, 2008), p. 4.

<sup>&</sup>lt;sup>21</sup> Closing the Coverage Gap, p. 31.

<sup>&</sup>lt;sup>22</sup> See "New strategies for old-age income security in low income countries", p. 2.

<sup>&</sup>lt;sup>23</sup> Closing the Coverage Gap, pp. 46–47.

<sup>&</sup>lt;sup>24</sup> Ibid., p. 36.

that such a pension being given led to an 8 per cent increase in school attendance among those in the poorest percentile of the population.<sup>25</sup>

35. Governments must challenge the myth that social pensions are a burden to the economy and the stereotyping of older persons as a burden to development. Indeed, social protection systems may act as economic stabilizers in critical periods and can have positive repercussions on local economies. For example, studies show that in rural areas, old-age pensions have an overall positive impact on the protection of poor rural communities affected by the adverse effects of agriculture reform and encourage local economic activity.<sup>26</sup>

36. Social pensions, however, should be seen as only one component of a broad social protection system designed to tackle the multidimensional aspects of poverty. The focus on older persons should consist of setting basic, non-contributory pensions as one of the pillars of a comprehensive approach that includes measures to ensure access to basic services (especially health services) and eliminate discrimination based on sex.

### **IV.** Human rights framework

37. Human rights treaties apply to all members of society and as such older persons are clearly entitled to the full range of rights established by them.<sup>27</sup> The Universal Declaration of Human Rights mentions the particular vulnerability of older persons in article 25, which stipulates that "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including … medical care and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control".

38. Several treaties contain specific references to old age. The Convention on Elimination of All Forms of Discrimination against Women stipulates "the right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work" (art. 11). It is also understood that the prohibition of discrimination included in major human rights treaties is understood as non-exhaustive; therefore, even if age is not mentioned specifically as a prohibitive ground for discrimination, it should still be accepted under "other status". The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families specifically identifies age as a prohibited ground for discrimination.

39. In 1995, the Committee on Economic, Social and Cultural Rights adopted a general comment on the rights of older persons, in which it stressed that States needed to adapt their social and economic policies to respond to the needs of ageing populations and should give more consideration to older persons in their human rights monitoring and reporting. The general comment also sheds light on the relationship between the provisions of the International Covenant on Economic, Social and Cultural Rights, the Vienna International Plan of Action and the United Nations Principles for Older Persons, clearly indicating that both binding and non-binding commitments are linked.

<sup>&</sup>lt;sup>25</sup> See Michael Samson et. al., "The Social and Economic Impact of South Africa's Social Security System", commissioned by the Economics and Finance Directorate, Ministry of Social Development of South Africa, 2004.

<sup>&</sup>lt;sup>26</sup> Armando Barrientos, "What is the impact of non-contributory pensions on poverty? Estimates from Brazil and South Africa", Chronic Poverty Research Centre Working Paper, No. 33 (2003), p. 3.

<sup>&</sup>lt;sup>27</sup> General comment No. 6, para. 10.

40. In 2009, the Committee on the Elimination of Discrimination against Women established a working group to elaborate a general recommendation on the rights of older women. In its preliminary work, the working group explains that the impact of gender inequalities throughout a woman's lifespan is intensified in old age and often results in unfair resource allocation, maltreatment, abuse, gender-based violence and prevention of access to basic services. The general recommendation will be an important tool for addressing the human rights of older women and the elimination of discrimination they face throughout their lives.<sup>28</sup>

#### A. The right to social security in human rights and labour standards

41. The right to social security is firmly grounded in international human rights law and several treaties contain specific references to old age protection through social security schemes. Further to articles 22 and 25 of the Universal Declaration of Human Rights, it appears in articles 9, 10 and 11 of the International Covenant on Economic, Social and Cultural Rights, article 5 (e) (iv) of the International Convention on the Elimination of Racial Discrimination, article 11 of the Convention on the Elimination of Discrimination against Women, article 26 of the Convention on the Rights of the Child, article 27 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Convention on the Rights of Persons with Disabilities mentions the right to social protection (art. 28).

42. At regional level, there are several provisions recognizing the specific vulnerability of older persons that call on States to implement specific measures to protect the elderly. They also emphasize the right to social security.

43. The African Charter on Human and Peoples' Rights stipulates that "the aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs" (art. 18). The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) recognizes the particular vulnerability of older women and requests States to take a number of measures "commensurate with their physical, economic and social needs as well as their access to employment and professional training" and "ensure the right of elderly women to freedom from violence, including sexual abuse" (art. 22).

44. The Revised European Social Charter recognizes "the right of elderly persons to social protection" (art. 23). It calls on States to adopt or encourage appropriate measures to: (1) "enable elderly persons to remain full members of society for as long as possible"; (2) "enable elderly persons to choose their lifestyle freely and to lead independent lives in their familiar surroundings for as long as they wish and are able"; and (3) "guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in the institutions".

45. The Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights recognizes that "everyone has the right to special protection in old age" (art. 17). It also called for States to take the necessary steps "to make this right a reality", particularly by providing food and adequate medical services; undertaking work programmes specifically designed for the elderly and establishing social organizations designed to improve the quality of life for the elderly.

46. Several International Labour Organization conventions and declarations also recognize the right to social security, including the Declaration concerning the aims and

<sup>&</sup>lt;sup>28</sup> See CEDAW/C/2009/II/WP.1/R.

purposes of the International Labour Organization, to pursue "the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care". The main standards are established by Convention No. 102 concerning Minimum Standards of Social Security and Convention No. 128 concerning Invalidity, Old-Age and Survivors' Benefits. Convention No. 102 establishes worldwide-agreed minimum standards for all nine branches of social security: medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors' benefit.

## **B.** Obligations under the International Covenant on Economic, Social and Cultural Rights

47. In its general comment No. 19 on the right to social security, the Committee on Economic, Social and Cultural Rights spells out the key features of this right and the content of respective States' obligations. It notes that States parties are obliged to progressively ensure the right to social security to all individuals within their territories, providing specific protection for disadvantaged and marginalized individuals and groups.<sup>29</sup>

48. Considering the vulnerability of older persons, the Committee highlights the fact that States are duty-bound to progressively ensure that everyone is covered by contributory or non-contributory systems. To this end, States parties must develop a national strategy for the full implementation of the right to social security in old age, and allocate adequate fiscal and other resources at the national level.

49. Under the Covenant, States are prohibited from deliberately taking any retrogressive measures, including in regard to the right to social security, unless they can prove that they have only been introduced after the most careful consideration of all other alternatives and are duly justified by reference to the totality of the rights stipulated in the Covenant.<sup>30</sup> If necessary, developing countries should seek international cooperation and technical assistance to realize progressively the right to social security.<sup>31</sup>

50. The Committee explicitly notes that States cannot rely solely on contributory systems for old-age pensions, as all individuals will not always be able to secure sufficient means to maintain an adequate standard of living. States must have a non-contributory pension system in place.<sup>32</sup> Therefore, within the limits of available resources, States must provide non-contributory old-age benefits to assist, at the very least, all older persons who, when reaching the retirement age, are not entitled to an old-age insurance-based pension.

# V. Expanding social security in old age in the context of a human rights framework

51. Establishing or extending social security systems is more than a policy option or a means for reducing poverty; it is first and foremost a duty of States stemming directly from human rights norms and standards, in particular the right to social security and the right to an adequate standard of living.

<sup>&</sup>lt;sup>29</sup> General comment No. 19, para. 31.

<sup>&</sup>lt;sup>30</sup> Ibid., para. 42.

<sup>&</sup>lt;sup>31</sup> Ibid., para. 52.

<sup>&</sup>lt;sup>32</sup> Ibid., para. 12 (c).

52. In order to fully contribute to realizing human rights, social pensions and any other relevant social policy should be designed and implemented in ways that ensure their compliance with core human rights principles and obligations. The following section examines the key human rights components for a social pension scheme that complies with human rights law.

#### A. Recognizing the right to social security, including the right to noncontributory pensions

53. As a necessary part of a rights-based approach to social pensions, the right to social security must be included in national legal frameworks. The most solid experiences of non-contributory pensions are those grounded in legal instruments that ensure the permanence of these initiatives and give rights-holders the possibility to claim for the protection of their right. Spain, for example, reported that the same legal instrument regulates contributory and non-contributory systems.<sup>33</sup> Brazil has the right to non-contributory pensions enshrined in the Constitution and a law also indicates that the value of pensions must be defined in accordance to a national index for payments.<sup>34</sup>

54. Despite some exceptions, States' over-reliance on contributory systems has often led to situations where non-contributory schemes lack a sufficient legislative basis. In several countries, they are implemented through weak institutional and legal arrangements such as presidential decrees or simple operational manuals.

55. The lack of a strong legal and institutional framework and a long-term strategy can seriously threaten the enjoyment of human rights by the programme's beneficiaries. A well-established legal framework is essential to protect the programme against political manipulation, and guaranteeing the long-term involvement of State authorities in all stages of the programme. It also allows rights-holders to know what their entitlements are, and the criteria for inclusion in and exclusion from the programme.

56. In order for legal and institutional frameworks to comply with core human rights principles, they should spell out eligibility requirements, provide for mechanisms to ensure transparency and access to information about programmes, define the various roles and responsibilities of all those involved in implementing the programme (e.g. Governments at the national and local levels, international organizations and civil society organizations), and establish accessible complaints mechanisms. Finally, they should set the ground for participation channels for beneficiaries.

57. Legal frameworks are of particular importance when States decide to implement small-scale initiatives and pilot projects. States have a duty to ensure that when pilot projects are discontinued, for example, the beneficiaries are protected from negative changes that could lead to income insecurity.

## **B.** Ensuring equitable access to social security and paying special attention to vulnerable and disadvantaged groups

58. Once the decision to establish a social pension is taken, States must ensure equal access to it. The principles of equality and non-discrimination require States progressively

<sup>&</sup>lt;sup>33</sup> General Social Security Act No. 1/1994.

<sup>&</sup>lt;sup>34</sup> Brazilian Constitution, art. 203, p. v.

to ensure universal protection. These principles also require taking special measures to protect the most vulnerable segments of society as a matter of priority.

59. There are essentially two types of non-contributory pensions: (a) universal schemes that ensure that every individual above a given age is entitled to receive pensions; and (b) targeted schemes that are intended to select beneficiaries on the basis of their income or poverty level and their age. To this end, several instruments could be used, such as means testing, proxy means testing, community targeting and/or geographical targeting. There are many experiences of both types of pensions around the world, but evidence described below reveals significant advantages of universal schemes in reducing poverty.

60. Universal pensions require the simplest structure with the lowest administrative costs and therefore are more likely to be successful in achieving their aims. Many developing countries provide universal pensions, such as Bolivia (Plurinational State of), Botswana, Brunei Darussalam, Namibia, Nepal and Samoa. Universal pensions avoid creating disincentives for low-income workers to save for their old age and disincentives for older persons to continue working beyond retirement age. They can also reduce opportunities for corruption, as they are available to all who meet the age requirement and there is no stigma attached.

61. Universal pensions are also more gender sensitive. In targeted programmes, existing power imbalances within society distort people's ability to access benefits. The structural discrimination of women based on gender stereotypes that prevails in most societies means that they are less able to influence decision-making processes and, as a result, may be excluded from receiving targeted pensions. In universal schemes, access cannot be manipulated to the detriment of women.

62. Moreover, with universal pensions, men and women receive the same level of benefits irrespective of their record in the labour market, thus recognizing the contributions women make in unpaid work such as caregiving. In developing countries, universal pensions may be the only means by which most women can guarantee income in old age. Universal pensions are also crucial to older persons in countries with high HIV rates and migration as many people will call on grandparents (mainly women) to care for children.

63. While including wealthier older people in a universal scheme may be a legitimate concern of States in the context of scarce resources, when there is a high level of poverty and low contributory pension coverage, the proportion of non-poor older people covered by the universal pension is likely to be small. Moreover, evidence suggests that attempts to exclude the wealthiest from a social pension may decrease political support, create disincentives to contributing to other pensions systems and even increase the total costs.<sup>35</sup>

64. If there are strong objections to including wealthy older people in social pensions, there are ways to reduce the benefits to the wealthier beneficiaries. One way is pension-testing that excludes those with other pensions and, if well-designed, should taper the size of the non-contributory pension benefit in line with the income received from contributory pensions.<sup>36</sup> This reduces the disincentive for people to save for retirement. In developing countries where there are inefficient progressive income tax structures, older people on higher incomes can often be dissuaded from collecting the universal pension where the benefit is a relatively small amount. Whatever method is used to identify eligible

<sup>&</sup>lt;sup>35</sup> See Larry Willmore, "Universal Pensions for Developing Countries", *World Development*, vol. 35, No. 1 (January 2007), pp. 24–51.

<sup>&</sup>lt;sup>36</sup> This means that, for every unit of income received from an additional State-run (or supervised) pension, the non-contributory pension reduces by a certain amount.

beneficiaries, it is crucial to have an age eligibility criteria adapted to the specific characteristics of the country.

65. While targeting mechanisms may be seen as way of reaching the poorest, from a human rights perspective, caution is required. In principle, human rights standards are not compromised by the use of targeted schemes as a form of prioritization of the most vulnerable and disadvantaged groups within a longer-term strategy of progressively ensuring universal protection. However, targeted schemes must be implemented with the intention of providing widespread coverage.

66. Implementing an income- or poverty-targeted system introduces exclusion errors because the selection of beneficiaries is a complex and often controversial process. While the State has some mechanisms to minimize this (e.g. cross-checking targeting and re-targeting exercises), which can significantly increase administrative costs, the exclusion of rightful beneficiaries constitutes a violation of their right to social security. Moreover, those excluded are often the most vulnerable, as they will find it most difficult to claim for their inclusion. Targeting can also create perverse results such as encouraging older people to stop working, in order to keep the benefits.

67. Targeting requires sophisticated administrative systems that may not be available in many developing countries. Moreover, the more complicated the method of calculation, such as proxy means testing, the more opaque the eligibility criteria become and the harder it is for the intended beneficiaries to scrutinize the process. As the process becomes less transparent, it becomes increasingly difficult for individuals to claim for protection.

68. Qualifying conditions for benefits of targeted schemes must be gender-sensitive, reasonable, objective and transparent. Particular care should be taken to ensure that it is the wealth of the older person him/herself that is assessed and not that of their household. Using household targeting methods for an individual benefit can place older persons in a disadvantageous position because of a lack of studies about household distribution of wealth. While community targeting is a method that can be implemented at reduced costs in many countries, it should also be examined carefully. Indeed, by leaving the decision of who gets the benefit to the discretion of community leaders, community targeting can reinforce power structures and patron-client relations. This can result in creating tensions between beneficiaries and others, further stigmatizing some groups.

69. The main advantage of targeted pensions is that their overall cost to the State, when compared with universal pensions, is low. In practice, however, the affordability of universal pensions is a political question. Evidence shows that, where there is political will, even low-income developing countries can afford these programmes.

70. For all the above reasons, it can be concluded that a universal pension scheme is most in keeping with human rights obligations as: (a) it responds to the claim of universality of human rights norms; (b) it complies with the principle of equality and non-discrimination; (c) it reduces opportunities for corruption and manipulation in the selection of beneficiaries which typically excludes the poorest; and (d) reduces possible stigmatization as it is available to all who comply with the age requirement.

71. Eligibility requirements for social pensions must be provided for in national law and mechanisms must be available to ensure the timely inclusion in the programmes. When adopting a universal scheme, States must put in place rolling registration systems to allow individuals to register as soon as they reach the age requirement. If the scheme is poverty-targeted, the qualifying conditions for benefits must be gender-sensitive, reasonable, objective and transparent.

#### C. Ensuring accessibility

72. The principle of equality and non-discrimination also requires States to ensure that social pensions are physically and culturally accessible to all older people.

73. States must remove administrative barriers that prevent older people from accessing social pensions, such as requiring identification documents for registration when such documents are costly or may not exist in countries where many people are not registered at birth. Administrative requirements often affect women disproportionately as they are less likely to have identity cards and have been registered at birth. There are alternative ways to assess and record ages based on local knowledge and personal references. Furthermore, the establishment of social pensions can be used as an opportunity to improve data collection and registration.

74. Ensuring that benefits are distributed within safe physical reach and at a reasonably convenient geographic location is part of ensuring accessibility. Limited physical strength and mobility can be a major obstacle for older persons, thus particular attention should be paid to older persons' opportunities cost in terms of transport, loss of labour or caretaker time. While electronic methods of payment (e.g. debit cards, smart cards and mobile phones) can improve cost efficiency and provide flexibility of access, issues relating to older persons' lack of familiarity with these mechanisms must be taken into account.

75. Cultural accessibility requires that outreach and information on social pensions must be specifically designed to reach excluded segments of society (e.g. radio announcements, talk shows, community plays, etc.). Outreach must also overcome illiteracy and linguistic barriers that may impair the access of older people from minorities, indigenous or migrant communities (e.g. by making information available in languages used by minorities and indigenous peoples).

#### D. Ensuring transparency and access to information

76. A human rights approach emphasizes that transparency and access to information are important safeguards against corruption and means of increasing accessibility and participation. Limited access to information by beneficiaries impedes their access to programmes and their ability to claim their rights. Non-transparent implementation of pension schemes risks perpetuating unequal power relations and increasing the likelihood of mismanagement.

77. Guaranteeing transparency and access to information requires careful consideration with respect to the core components of the non-contributory pensions system, such as: (a) targeting mechanisms; (b) eligibility criteria; (c) benefit levels; (d) existence of complaints and redress mechanisms. Individuals and organizations should have the right to seek, receive and impart information in a clear and transparent manner.

78. Increasing transparency in the overall functioning of social pensions will also increase public support for investments in these policies. Any perception that pensions are not reaching their rightful beneficiaries or lack of trust in the sustainability of pension systems can be used to justify calls for limiting investment in non-contributory pensions.

#### E. Ensuring accountability

79. Human rights standards emphasize that everyone has the right to an effective remedy when his or her rights have been violated. Policymakers and others whose actions have an impact on the social pension schemes must also be held accountable when their

decisions and actions impact negatively on the right to social security of older persons. Moreover, effective accountability mechanisms not only enhance protection for beneficiaries, but also improve the efficiency of social policies.

80. A social pension scheme without accountability and redress mechanisms is more likely to be viewed as an instrument of charity that can be manipulated by political actors than part of someone's entitlement.

81. Ensuring that everyone has a channel to complain can be a critical element to ensuring that power imbalances — often prevalent at local levels — are not perpetuated. For complaints mechanisms to play a meaningful role, they need to meet certain technical standards, such as: guaranteeing anonymity; allowing for individual and collective complaints; as well as being sufficiently resourced and culturally appropriate. Additionally, there must be independent and effective judicial and quasi-judicial (e.g. ombudsperson) mechanisms in place to monitor the general formulation and implementation of social policies.

82. To be effective social pension programmes must periodically review decisions taken on at least three key elements: (a) the procedures utilized to register beneficiaries (in particular to identify the possible wrongful exclusion of beneficiaries); (b) the implementation of the programme (to monitor all sorts of possible abuses occurring when assistance is provided at the local level, e.g. sexual harassment); and (c) the overall payment procedures (to monitor misappropriation of financial resources throughout the different stages of implementation).

#### F. Respecting the principle of participation

83. Wide and informed public participation in the development and implementation of social policies is an essential feature of policies grounded in human rights standards. Participation of the intended beneficiaries is not simply desirable in terms of ownership and sustainability, but is also part of their right to take part in public life which is a core component of human rights instruments. Owing to the asymmetry of power between the beneficiaries and the authorities that administer the programme, beneficiaries are often unable to realize their rights. Promoting meaningful public participation must thus be an essential feature of the design, implementation and evaluation of social pensions. Special attention must also be devoted to ensuring the effective participation of older women and other groups that may be marginalized.

84. Evidence shows that participatory strategies are often not meaningful as they are often reduced to mere consultation that does not allow for real input from participants into decision-making. Frequently, participation processes are incorporated to social programmes without serious thought being given to the factors that limit older persons' possibilities to take part in public life and influence decisions affecting them, such as physical impairments and sensory losses, local power structures and family relations. Relying on family members or community leaders as the only communication channel with older persons limits their ability to voice personal views and can reinforce their dependency on others.

85. In many societies, younger generations are prioritized and social protection schemes might also reflect this focus unless specific attention is given to older persons' concerns when defining collective priorities.

86. Participation should be understood in a broad sense. It should include not only beneficiaries, but also civil society organizations that can play a role in advocating for the rights of older persons. Indeed, participatory processes are important to mobilize public understanding of and support for the establishment of social pensions schemes grounded on the recognition of the universal right to social security. In particular, public participation in

budget exercises can ensure that public resources are devoted to expanding social security, in particular to the most vulnerable.

#### G. Ensuring the adequacy of the benefits

87. The financial affordability and sustainability of expanding social pension programmes have immediate implications on the determination of benefit levels. While States should bear in mind the need to expand the coverage of existing schemes, ensuring that the levels of pensions remain adequate for beneficiaries is also a major concern. In this context, the benefits must be high enough to enable older people to enjoy an adequate standard of living and afford the goods and services they require to realize at least the minimum core content of their economic, social and cultural rights. While the cost of schemes can be reduced by increasing the age of eligibility or decreasing the size of the benefit, a balance should be struck between reaching all those in need and providing a benefit that would allow older people a minimum subsistence level.

88. Considering limited fiscal resources, in some countries, it could be possible to begin with a universal pension offered at an advanced age (providing adequate level of benefits) and from there slowly extend the programme to include persons of a less advanced age. However, this should be carefully examined. While a high age requirement could reduce costs and help the programme to be implemented immediately and later scaled up, if the age requirement is too high it may be regressive, as it could predominantly benefit the better-off in society.

89. Social protection programmes should not be restricted only to monetary support. As addressed above, social pensions do not work in isolation – they must be complemented by various services. Older persons are rights-holders who require not only social security support, but a multitude of social services to ensure an adequate standard of living, including in particular access to health care.

#### H. Ensuring access to health care

90. For older persons, financial security and health are closely linked: expenses for health care and medicines account for as much as three quarters of the income of the poorest groups.<sup>37</sup> Under these circumstances, the positive impact of social protection initiatives on older persons' standards of living can be nullified by the burden posed by health-care-related costs.

91. Social pensions should be planned and implemented in close coordination with other initiatives aimed at ensuring the enjoyment of the right to the highest attainable standard of health by older persons. In fact, providing pensions can be a clear opportunity to further integrate health services into social assistance. For example, in Mexico beneficiaries of cash transfers were given the chance to participate in health prevention and nutrition workshops as well as other social activities.

92. In accordance with the interpretation of the Committee on Economic, Social and Cultural Rights, the right to health must be understood as a right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of physical and mental health.<sup>38</sup> This includes the obligation of

<sup>&</sup>lt;sup>37</sup> J. Randel et al. (eds.), "The Ageing and Development Report: Poverty, Independence and the world's older people" (HelpAge International, 1999).

<sup>&</sup>lt;sup>38</sup> See Committee on Economic, Social and Cultural Rights, general comment No. 14.

the State to guarantee timely and appropriate access to health care and address underlying determinants of health, such as access to safe and drinkable water or an adequate supply of safe food.

93. The living conditions of persons living in extreme poverty clearly impact on their health status throughout their life. Higher incidence of ill-health and premature mortality correlates with socioeconomic factors in all regions of the world. Ageing increases a person's susceptibility to illness and disability, and this phenomenon is further aggravated by poverty as they are less likely to be able to afford health care and more likely to maintain poor nutritional diets. They are also more likely to have engaged in physically demanding work for a living. Therefore, policies must take into account that older persons living in poverty may have a greater need for health care.

94. In such circumstances, receiving a social pension can increase access to health care, especially in the long run as it represents a stable and predictable source of income. However, social pensions can only positively affect older persons' enjoyment of the right to health if adequate health-care services are in place. Research shows, however, that public health policies often prioritize younger women and children and lack consideration of the specific needs of older people.<sup>39</sup> Thus, health services are not geared towards fulfilling these needs and there can be significant gaps in the provision of services. This is particularly true about long-term care, for which resources and capacities are limited everywhere.

#### I. Ensuring gender equality

95. Non-contributory pensions are the most efficient means of ensuring the right to social security for older women and compensating them for their years of unpaid or inadequately paid work. However, to ensure equal access by women to a social pension, special measures must be implemented to overcome possible barriers to older women caused by structural discrimination, such as lack of access to adequate documentation and identification; difficulties to approach administrations or lack of gender sensitive social services.

96. In some countries, structural discrimination against women and increased competition for family resources from younger members often means older women lose control of assets once owned by their husbands and are left without a source of income. In extreme cases, they are subjected to accusations of witchcraft. The context in which accusations of witchcraft are made is complex, resulting from deep-seated cultural beliefs, and the need to apportion blame and seek redress for a negative event, such as a death in the family or crop failure and poverty. Nevertheless, the low status of women and their inability to defend themselves makes them the primary targets of such violence.

97. In such contexts, the income security and empowerment that a social pension provides is vital. However, the importance of social pension for women must not absolve States of their duty to take other measures to ensure gender equality and protect women against gender-based violence. In most countries, women's vulnerability to poverty will not change with a social pension alone. Measures such as access to land and economic resources for women, fair inheritance rights and full legal capacity are essential to improve their standard of living.

<sup>&</sup>lt;sup>39</sup> Di McIntyre, "Health Police and Older People in Africa" in Peter Lloyd-Sherlock (ed.), *Living Longer* (UNRISD, 2004).

## VI. The role of international assistance and cooperation

98. Where there is political will, low-income and middle-income countries can implement social pension programmes. Without detracting from developing States' own obligations, international assistance must also play a role in helping developing countries to progressively realize the right to social security. In those countries where the protection gap is widest, establishing or enhancing non-contributory pensions requires overcoming considerable resource, institutional and technical constraints. International assistance can be critical in this respect.

99. States have made a number of public political commitments underlining the shared international responsibility for poverty reduction and the need for a partnership among developed and developing countries against extreme poverty.<sup>40</sup> The commitment to support through international cooperation is also present in human rights treaties such as the Covenant on Economic, Social and Cultural Rights (arts. 2.1 and 11) and the Convention on the Rights of the Child (art. 4). The Committee on Economic, Social and Cultural Rights further emphasizes "that it is particularly incumbent on States parties and other actors in a position to assist, to provide 'international assistance and cooperation, especially economic and technical' which enable developing countries to fulfil their core obligations".<sup>41</sup> This is based on the underlying premise that some countries will not be able to achieve the full realization of economic, social and cultural rights if those countries in a position to assist do not actually provide them with assistance.

100. Despite these obligations and commitments, most Governments are consistently failing to honour their longstanding commitments to reach a target of 0.7 per cent of gross national product for official development assistance. Moreover, States have only recently started considering international assistance in relation to social security. Donor countries need to change this approach. Their responsibilities under international human rights law also require them to support and strengthen social security systems, including social pensions worldwide. This will substantially help reduce poverty and ensure compliance with human rights norms over the long term.

101. The international community can play a key role in supporting the initial set-up of social pension systems, in particular in low-income countries, for example, by providing technical and/or material assistance in designing programmes and identifying and registering possible beneficiaries. A number of core common principles can also guide donors on how to best support and ensure the long-term sustainability of social security systems, including social pensions in recipient States.

102. The effective management of social pensions requires a long-term view for the sustainability of these initiatives. Donor States must ensure a long-term perspective and predictability in providing assistance. Coordination within the international donor community is also crucial. When providing assistance for different social protection schemes, donors must ensure that their initiatives are well coordinated. A short-sighted, fragmented approach with little coordination can contribute to a proliferation of projects, which in time could hinder the establishment of a social security system sustainable in the long term with broad coverage.

<sup>&</sup>lt;sup>40</sup> These commitments include, inter alia, the Millennium Declaration and goal 8 of the Millennium Development Goals; the Doha Declaration and the Monterrey Consensus of the International Conference on Financing for Development.

<sup>&</sup>lt;sup>41</sup> Committee on Economic, Social and Cultural Rights, general comment No. 14, para. 45.

103. Ensuring sustainability also requires strengthening the recipient State's capabilities to eventually implement the social pension programme unassisted. This includes a broad range of measures that can be supported by donor States, such as providing technical support to local and national authorities, building civil society's capacity for monitoring the social pension system and holding the Government accountable, and assisting in the implementation of effective tax systems.

### VII. Conclusions and recommendations

104. The rapid ageing of the world population, particularly within developing countries, requires that there be an urgent assessment of the existing policies aimed at protecting older persons. Extreme poverty amongst older persons is a reality in every region of the world today: lack of access to work and income, increased need for health care and dependency within the household are some of the factors that expose older persons to poverty. Unless action is taken, the situation will deteriorate.

105. The traditional reliance of many States on contributory pension systems as the main source of social security in old age has left a significant portion of older persons unprotected. This problem is particularly serious for women as most are not covered by contributory pension schemes although they tend to live longer. Investing in non-contributory pensions can play an important role in empowering older people and contribute to the realization of their human rights, in particular their economic, social and cultural rights.

106. Non-contributory pensions are the only means by which universal pension coverage can be achieved and gender imbalances redressed. However, social pensions must not be regarded as the sole response to old-age poverty. To be effective in the promotion of an adequate standard of living, social pensions can only be one component of a comprehensive social protection strategy that addresses the impact of extreme poverty throughout one person's life cycle and includes measures to ensure older persons access to adequate social services, in particular access to health care.

107. Keeping in mind important lessons learned in developing and developed countries that invest in non-contributory systems of social security, the recommendations below attempt to summarize the main human rights concerns that States must address when establishing or extending social pensions.

(a) Recognize social security as a human right and establish appropriate legal frameworks

108. States must recognize the human right to social security in domestic law. Noncontributory and contributory pension schemes must be guided by international human rights standards for the right to social security.

(b) Ensure universal access to social security

109. States must design social pension schemes progressively to ensure access to social security for all. At the very least, they must provide protection to all older persons who, when reaching the retirement age prescribed in national legislation, have not completed a qualifying period of contributions or are not otherwise entitled to an old-age insurance-based pension and have no other source of income.

## (c) Integrate human rights principles and standards throughout the design, implementation and evaluation of social pensions

(i) Equality and non-discrimination

110. States must prioritize the protection of the most disadvantaged and marginalized individuals and groups in social security systems. Universal social pensions are in line with human rights standards as they reduce opportunities for the unfair exclusion of potential beneficiaries. When poverty-targeted pension schemes are adopted, States must ensure they are fair, effective and transparent, include safeguards against discrimination and constitute a clear step on the road to universal coverage.

111. States must adopt specific measures to ensure access to social pensions by those in most vulnerable conditions, for example, by removing administrative barriers that prevent them from accessing social pensions, such as the lack of documentation. Specific measures are also needed to ensure that benefits are distributed within safe reach and at a convenient geographic location, paying particular attention to physical and mental impairments that affect older persons.

(ii) Transparency, access to information and accountability

112. States must ensure that information on social pensions is widely available and accessible, especially to the poorest segments of society. In particular, information about eligibility criteria, levels of benefits and complaint mechanisms must be accessible to all potential beneficiaries. The legal and institutional framework regulating pension schemes must guarantee the existence of accessible accountability mechanisms.

#### (iii) Meaningful and effective participation

113. States must ensure the meaningful and effective participation of older persons in the design, implementation and monitoring of social pensions. Considering the specific needs of older persons, participation mechanisms must take into account existing power structures within communities and remove particular obstacles for their participation in collective decision-making processes.

(iv) Ensure close coordination among social security and health-care policies

114. States must ensure social security schemes are complemented by other social policies, in particular the provision of health care. States must ensure access to adequate health-care services and address other underlying determinants of health, such as access to safe drinking water and food.

(v) Pay particular attention to older women

115. Non-contributory pensions are the most efficient way of ensuring protection to older women and compensating them for their years of unpaid or inadequately paid work. States must address the specific challenges affecting older women seeking to benefit from existing social services. States must also take other measures to complement social security measures by ensuring women's equal access to land and resources.

(d) Enhance international cooperation

116. States must enhance international cooperation efforts related to social security. They must devote particular attention to ensuring the sustainability and coordination

of the different initiatives supported by international cooperation and their integration within a national system of social security.