

# Legal protection of the vulnerable: the case of older IDPs

by Flora MacDonald

*Rahma, a 77 year old woman from northern Iraq, lives with her son's widow and four grandchildren in Shorish collective town. Before, she lived peacefully with her husband, her four sons and only daughter in her original village where they owned a piece of agricultural land, 40 head of sheep and a few cattle.*

*In 1988 the war started in Rahma's area and the Iraqi military forces attacked them and controlled the whole region including her village. They captured 28 young men, among them her four sons. As a result, Rahma tells us, her husband became deeply depressed and later died of sorrow and sadness. The military operation was called the Anfal campaign. Till now she does not know anything about the fate of her disappeared sons. The army forced Rahma, her son's widow and four grandchildren to settle in Shorish.*

*Her son's widow has to leave home and go to nearby villages to work for a daily wage, staying there for more than two months to earn some money to keep them alive. "During this period of time", Rahma says, "I stay at home alone crying and even singing some times in sorrow, especially when I go to bed. I try to keep my patience and to release my sorrow and sadness but I do not know how to manage all this".*

Stories such as Rahma's are increasingly common as the number of older IDPs grows. The world's population is ageing at an ever faster rate, with the relative increase in the older population most noticeable in the developing world. With women's life expectancy still exceeding men's by an average of five years, and the propensity of women not to remarry once widowed, the oldest in many parts of the world are predominantly women. A majority of the displaced are female.

Older people such as Rahma are affected by and cope with natural and conflict-induced emergencies and their aftermath on a daily basis across the globe. They are present in the ruins of villages and towns; they are to be found hiding in the abandoned countryside, in trails of refugees trekking to safety, under collapsed buildings, and seeking refuge from floods. They are left to guard property, look after grandchildren, and care for the sick and wounded. Their personal safety can be severely compromised by revenge attacks, looting and indiscriminate violence.

Older people should be supported, yet the experience of HelpAge International (HAI) indicates that older people are all too often bypassed by humanitarian assistance efforts. They often sacrifice their own needs for those of the young and are at the bottom of the priority list in

the planning and implementation of emergency programmes. Older people are often not consulted about their needs and how to address them.

## Lack of data

A critical challenge facing all agencies is the lack of reliable data concerning actual numbers, location and make-up of the displaced population. Although estimates exist suggesting older people now make up between 10-30% of displaced people, we need specific information on where they are, how many of them there are, their gender, ethnicity, socio-economic and employment status, and the conditions in which they live. This can only be achieved through wide consultation with affected populations and inter-agency co-operation. The Best Practice Guidelines developed by HAI<sup>1</sup> contain examples of surveys and needs assessments that should be carried out with disaster-affected populations in order to collect this essential data.

We also need to gather accurate and reliable data on the gendered make-up of the internally displaced population. The gendered effects of conflict mean that young and adult men may be more likely to be targeted by armed groups and to be killed, recruited or flee. This may leave older men as the head of a three-generation household. More often than not it is women, and, increasingly, older women, who are left to care for the

orphans left behind by conflict. Without better understanding of the gendered experience of displacement and the gender and age composition of affected populations, appropriate interventions cannot be designed.

## Older people are invisible

Because they often do not flee but remain in their homes, older IDPs are frequently invisible. Facing physical and mobility constraints that make leaving home difficult, they are reluctant to leave the house, land and livestock which are their principal assets. Such a situation was brought out by a report by the Project Counselling Service<sup>2</sup> on displacement in Colombia. Following a massacre of 26 people in a community in the Putumayo in 1999, all but 160 of the original 2,300 inhabitants fled. Older people comprise the majority of those who remain. In Colombia, as elsewhere, for reasons of safety of humanitarian staff, access to rural conflict zones is difficult. Services therefore do not reach these older people, leaving them further marginalised at a time when their needs are most urgent.

Food distribution programmes and medical services tend to require the attendance of, rather than delivery to, the beneficiaries. Older persons often cannot access services, especially if they have caring responsibilities and physical mobility constraints. Older



people of ethnic minorities or indigenous groups frequently suffer marginalisation because they face linguistic barriers with humanitarian assistance staff and are without the support of younger family members acquainted with the dominant language. Services for trauma counselling and post-traumatic stress disorder are rarely provided for older people in emergency-affected populations. Fear of violence, theft or other abuses can itself reduce mobility and independence for people of all ages but women and older women are particularly affected.

### **Neglected capacity and resources of older IDPs**

The knowledge, skills and capacities of IDPs can, and in fact do, support relief efforts. HAI research in Rwanda found that older people played important roles in community conflict resolution and reconciliation, in leadership of community self-help groups and with their families as carers of grandchildren and property. Similarly, older persons' self-help groups in Sudan, supported by HAI, provide a valuable service to the community, through identifying vulnerable older people and distributing relief aid. Unfortunately, assumptions and societal stereotypes that portray old people as a burden are exacerbated in times of emergency. International humanitarian agencies demonstrate only limited recognition of the practical and material contribution older people are making.

### **Respecting the rights of older IDPs**

To age is a universal and personal experience. Therefore, the rights we talk about and espouse, or deny, are our rights now and in the future. Legally, older people enjoy the same rights as the rest of the population. In practice, however, older people often fail to benefit from the human rights provisions currently in place. Older people's rights are all too often denied or sidelined, especially in emergency situations.

Is the life of an older person worth less than that of younger people? Apart from violating the universal human right to life, such a valuation would fail to take account of the rights of older people and the important roles played by older people. Older people should have equal access to all services and the means to resettle, and their specific needs relating to shelter, nutrition, health and mobility must be taken into account.

A principal problem for many displaced persons relates to legal identity papers as many IDPs suffer the loss or theft of their papers in natural hazards or conflict situations. One of the first exercises of humanitarian agencies is, therefore, to register people and issue them with some form of ID. In such circumstances, older people will often need special help as they frequently have never been issued with legal docu-

ments, including birth certificates. The absence of papers should not be used to deny their entitlement to services and assistance.

When borders are redrawn as a result of conflict, people often find themselves outside the borders of their country and their nationality under question. A case in point, which has not received adequate attention in debates relating to involuntary displacement, stems from the collapse of the former Soviet Union and the massive forced populations movements into 'Mother Russia' of ethnic Russians no longer welcome in such new states as Uzbekistan, Tajikistan and the Ukraine. This presents a particularly difficult situation for older people who may have been born and lived all their lives in the former Soviet republics. Evidence from HAI partners in the region suggests that, since the old Soviet passports were revoked on the collapse of the Soviet Union, older people who were born outside its current boundaries are experiencing great difficulty in obtaining new Russian passports. This has serious consequences for their potential to exercise their rights, especially those related to housing, social services and pensions. This is a situation that needs serious attention in order to establish the real conditions in which these people exist.

Much of the discrimination facing older people in general, especially those in developing countries, is connected to the lack of proof of active citizenship. The human rights discourse is fundamentally based on the idea of citizenship and the rights of the individual to seek support and protection from their state. Under these circumstances, having a legal piece of paper that attests to one's status as a citizen is essential for things as basic as the right to vote, access to social security and the guarantee of free passage within one's own country. Older people without legal papers therefore face particular problems. Issues relating to property and inheritance rights come into play in the relocation of returnees. Illiterate older people are particularly vulnerable under these circumstances. It is essential that appropriate action be taken to ensure that the rights of older IDPs are not abused or manipulated by authorities or other family members.

More must be done to guarantee the security of IDPs upon relocation or return and to provide compensation for the losses they have incurred. For example, of the thousands of people who were displaced during the Rwanda genocide, untold numbers of women were raped by soldiers infected with the AIDS virus. As a result, many women of all ages in Rwanda today are dealing simultaneously with the trauma of rape and the virus. Exact numbers of older women infected by the virus are not known. Older women caring for victims of AIDS and for grandchildren left behind when parents were killed require humanitarian support, legal protection and development aid.

The negligence of governments and the international community to include and address older people as equal citizens in times of displacement has serious consequences for the ability of older people to exercise their rights. This is related to the extent to which older people's rights are respected, prior to the emergency, by the community, by the family and indeed by themselves. Poverty and social exclusion play an important role in determining older people's ability to exercise their rights. It is fundamental that human rights legislation is applied equally to all persons and that the discrimination faced by older people, often as a result of the negative stereotypes of old age, is addressed in a way that guarantees equal access to assistance, opportunity and development for all.

### International tools for the protection of people of all ages

The Guiding Principles on Internal Displacement clearly state that no discrimination of any kind, including age, should influence the delivery of relief operations and they make explicit mention of 'the elderly as entitled to protection and assistance required by their condition, and to treatment which takes into account their special needs'.<sup>3</sup> The 1948 Universal Declaration of Human Rights applies to older persons as much as to anyone else. We may ask, however, whether or not the application of this declaration across age groups is universal. Older people are covered under international humanitarian law, and

the Geneva conventions (1949) make specific mention of them. However, they do not figure as a 'vulnerable' group in the additional protocols (1977), and thus they do not receive special attention, unlike women, children and the disabled. Implicitly, older people could be part of two of these protocols but explicit reference would have to be made to older people, and action monitored and reported on, so that their needs and participation are not sidelined.

### Building on Madrid: where do we go from here?

Why is it that older persons and ageing — as an issue both for relief and development — are not higher on the humanitarian agenda? The UN has been concerned about ageing since the first world Assembly on Ageing in Vienna in 1982 where it adopted the Plan of Action on Ageing. In 1991 the UN drew up a set of Principles for Older Persons to which a number of governments have signed up.<sup>4</sup> The UN also designated 1999 as the international year for older persons. However, the Principles are not yet legally binding and true commitment from member states to implementing them has been slow.

In April 2002, a new International Plan of Action on Ageing was agreed at the Second World Assembly on Ageing in Madrid [see box on this page and Erin Mooney's article pp11-13]. The challenge now is to ensure that governments meet the commitments made in Madrid. As those who stand to be most affected, older people and their organisations have a vital role to play in getting their governments to act on the recommendations set out in the Plan, and in monitoring progress. The Plan does not commit governments or the international community to providing additional resources for implementation. This means ensuring that resources are made available from in-country poverty reduction programmes.

HAI seeks to bridge the gap between international laws and regulations on paper and their implementation through concrete domestic action to comply with them; and between humanitarian relief and welfare assistance and long-term sustainable peace and development for a society of all ages. To make this a reality, compre-

## The International Plan of Action on Ageing at a glance

### Strengths

- ✓ sees population ageing as an 'enormous potential', not a burden
- ✓ affirms that poverty of older people must be addressed in line with the Millennium Development Goal to halve world poverty by 2015
- ✓ emphasises older people's rights and participation in development processes
- ✓ covers issues of concern to older people in poorer countries

### Weaknesses

- ✗ provides no additional resources for implementation
- ✗ lacks mechanisms for implementation and monitoring

hensive and reliable data is needed on the actual situation of old and ageing people around the world, particularly in conflict and emergency situations. This is essential so that programmes and policies can be adequately designed, targeted and implemented to enable the full participation, inclusion and protection of older people.

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Website: [www.un.org/ageing](http://www.un.org/ageing)*

1. For further information about the *Best Practice Guidelines* see: [www.helpage.org/images/pdfs/ODmanual/ODintro.pdf](http://www.helpage.org/images/pdfs/ODmanual/ODintro.pdf)

2. The Project Counselling Service website is at [www.infotext.org/pcs](http://www.infotext.org/pcs)

3. *Guiding Principles on Internal Displacement* No. 4.1&4.2

4. For the text of the Principles see: [www.un.org/esa/socdev/iypop/iypopop.htm#Principles](http://www.un.org/esa/socdev/iypop/iypopop.htm#Principles)