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### **Rights of older women**

Despite advances in promoting gender sensitive legal frameworks and women's human rights, women's de jure and de facto equality has not been achieved in any country in the world. At the national level, gender-based discrimination continues in law and in practice, with many women suffering multiple forms of discrimination amid limited access to rights, resources and opportunities.<sup>135</sup> In the case of older women who have to face double discrimination on age and sex grounds, marginalization is a real, day-to-day condition in many countries. Bringing older women into the mainstream of social and economic development requires big and small steps based on intergenerational solidarity, such as adopting legal provisions and enforcing policy measures that go beyond welfare considerations but emphasize a full range of their human rights.<sup>137</sup>

### **Demographic trends and social factors**

The world is ageing: the proportion of people aged 60 and over is growing in the total share of the population worldwide, largely due to declines in fertility and rising longevity. Gender dimensions of ageing are profound as older women continue to outnumber older men, comprising a majority of older persons and their share of the older population increases with age. At the global level, the sex ratio of the population aged 60 or over is 83 males per 100 females, and while sex ratios at older ages vary greatly among major areas and countries, globally in 2009 women aged 60 or over outnumbered men of the same age by 66 million<sup>138</sup>.

In the Arab region, the process of ageing is not as advanced as in some other regions of the world, such as in Europe or in some countries in Asia. Nevertheless, in the wake of the rapidly changing demographic situation in the region, the need to meet the challenges of an ageing society cannot be overlooked, given that the absolute number of people aged 65 and above has already doubled from 5.7 million in 1980 to 10.4 million in 2000 and to 14 million in 2010, projecting to increase to 21.3 million by 2020.<sup>139</sup>

Across the world, there is vast evidence that older women belong to the most vulnerable and marginalized category of the population, and often, the poorest. First of all, many older women are widows and are likely to live alone, unable to receive even a minimal assistance from the family.<sup>140</sup> They tend to remarry less often compared to

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135 United Nations. Review of the implementation of the Beijing Declaration and Platform for action, the outcomes of the twenty-third special session of the General Assembly and its contribution to shaping a gender perspective towards the full realization of the Millennium Development Goals. Commission on the Status of women, Fifty-fourth session, E/2010/4-E/CN.6/2010/2, 7 December 2009

136 The purpose of this paper is not to provide a comprehensive overview of the legal status on women's rights in the Arab region. Rather, it is an attempt to highlight some salient features of socio-economic and cultural nature specific to the discussion concerning rights of older women, in the context of the region.

137 United Nations. World Population Ageing 2009, ESA/P/WP/212, December 2009, p.26

138 ESCWA. Population Ageing in Arab Countries. United Nations, 2007, p.1

139 United Nations. Living Arrangements of Older Persons Around the World, Sales No.E.05.XIII.9, New York, 2005

older men, and experience longer years of widowhood. Because they are widows they may also experience prejudice and ostracism— in some countries there are cultural traditions which ascribe ill omen to widowhood, providing grounds for discrimination against widows.

Many older women are particularly vulnerable because they are illiterate. According to some estimates nearly 60 per cent of women in developing countries of age 65 and over cannot read or write, compared to 34 per cent of men. Illiteracy not only deprives women of better earning opportunities, undermining their status in family and society at large, but also does not allow them to realize their full potential. Moreover, the attainment of higher levels of education is, as a rule, associated with better health. (Both issues are discussed in more detail in the context of the Arab region in the next section of the paper).

Because labor force participation at older ages has dropped among men and is rising among women, the share of women in the older labour force has been on the increase. At the global level, women's share of the old world force rose from 28 per cent in 1980 to 40 per cent in 2009<sup>141</sup>. In practical terms it often means that many older women are forced to work longer, carrying out low-earning manual work to obtain minimal means of existence.

Age is often considered a visible sign for several distinctive processes within older person's lives. First of all, chronological age establishes a plank in identifying a distinct demographic (birth) cohort. In today's world, a group of persons aged 60 and over represent a span of over 30 years characterized by great diversity of individuals who belong to that group, by status or class. Secondly, age reflects the physiological ageing process. "Over time, --writes Deepak Chopra,-- these various "age changes", as gerontologists call them, exert massive influence. They are the thousand tiny waves that bring in the tide of old age"<sup>142</sup>. On average, the advancing age correlates with increasing age-related health risks, even though the situation varies across countries regarding opportunities for "active ageing". Finally, ageing is associated with a range of social and economic changes in the lives of individuals, often stemming from other changes in social roles and relationships, but not necessarily linked to poor health or ageing per se.<sup>143</sup>

Gender is one dimension that is cuts across the above meanings of ageing. In terms of physiological ageing, older women have greater reported levels of disability compared to older men, and may experience more constraints in their day-to-day activities due

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140 United Nations. World Population Ageing 2009, ESA/P/WP/212, December 2009, p.39

141 Deepak Chopra, "Ageless Body, Timeless Mind. The Quantum Alternative to Growing Old", Harmony Books, New York, 1993, p.10 The authors argues, however, against seeing mandatory retirement age at a given age (say 65) as "an arbitrary cut-off date for social usefulness", when "the day before a worker turns 65, he contributes labor and value to society; the day after, he becomes one of society's dependants (ibid, p.12). While the author uses only gender-insensitive "he" the statement above is probably applicable to both women and men.

142 Sara Arber, Kate Davidson and Jay Ginn (eds.) Gender and Ageing. Changing Roles and Relationships. Open University Press, McGraw-Hill. Maidenhead and Philadelphia, 2003, p.3

143 Ibid.

to mobility difficulties. Because current financial circumstances of older women are closely linked to their previous role and position in the labour market, older women are also more likely than older men to experience economic disadvantages in their later life<sup>144</sup>.

### **Existing disadvantages: regional dimensions**

Disadvantage is usually associated with structural causes and occurs when obstacles created by society inhibit access to resources, benefits and opportunities. The disadvantages and gender inequality that women are experiencing in the region have been corroborated by many studies, including by scholars from the Western Asia region. For example, Dr. Madiha El Safty, highlighting older women “marginalization in an ageing society”, in her study on ageing in the Arab region, emphasizes that existing vulnerabilities are amplified by gender, while “ageing issues are not addressed as matters of concern. An old woman is therefore doubly disadvantaged in a male-dominated culture where gender inequality still exists”<sup>145</sup>.

Female literacy is a pressing issue for the Arab region— on average only 51 of adult women are literate compared to 73 percent of adult men.<sup>146</sup> It is far below 95 per cent literacy prevalent in the developed countries. Despite great strides made in some cases at the national level,<sup>147</sup> high rates of illiteracy among women persist in the majority of the Arab countries. A range of factors seem to account for such a situation, including poverty, tradition of early marriages, illiteracy of parents, a low national starting base in primary education, a slowdown in the rate of increase in enrollment during the 1990s compared with 1980s, the decline in public expenditure on education since 1995, as well as low political commitment.<sup>148</sup> According to some estimates, about 8 million children of primary-school age remain out of school and 5 million of them are girls; one girl in four is out of school<sup>149</sup>. Quite often families do not see much sense in educating girls because after marriage many women move away from their parents. In some cases pertinent to countries in the region (e.g. Morocco), the gender gap in literacy among the present younger generation is even larger compared to that of the parents and grandparents generation. On the other hand, when countries demonstrate a strong political commitment to eradicating illiteracy at the national level, accompanied by sustained support and necessary funding, significant success in this area has been achieved (Jordan, Gulf States)<sup>150</sup>

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144 Madiha El Safty. “Ageing in Western Asia” in UN/DESA Study “Regional Dimensions of the Ageing Situation”, United Nations, New York, 2008, Sales No.E.08.IV.1

145 Ibid, p.145

146 Female literacy rates for persons aged 15 and over range from 24 (Iraq) to 85.9 percent (Jordan). Between 1990 and 2000-2004 six Arab countries ranked above the world average of 76.5%. Bahrain raised its female rate from 74.6% to 84.2%, Jordan from 72.1% to 85.9%, Kuwait from 72.6% to 81%, Lebanon from 73.1% to 82%, Qatar from 76% to 82.3% and the United Arab Emirates from 70% to 80.7% (Hassan R. Hammoud. Illiteracy in the Arab world. UNESCO, 2005 (2006/ED/EFA/MRT/PI/38)

147 Ibid, p.4

148 Ibid, p.13

149 Ibid, p.9

150 A.Abyad. Geriatrics in the Middle East. Middle Eastern Journal of Age and Ageing, July 2004, vol.1, issue 1

Low levels of school enrolment for girls are often at the root of the many disadvantages and socio-economic problems women are facing down the life-course, primarily inability to compete with men on the labour market for better paid-jobs. Low levels of education and training closely correlate with low-status of work that women may be able to find and perform, quite often in the informal sector of the economy, having no opportunity to get a job elsewhere. In this sense, disadvantages formed at the very beginning of their lives are haunting women along the road, preventing them from having a choice and making them extremely vulnerable. Illiterate women may be not aware of their legal rights (even when they exist), are deprived on employment opportunities and often cannot earn sufficient income.

There is also an obvious and well documented health dimension— gender gaps in education have been linked to negative female health outcomes, while promoting access to education has been identified by UN international Conferences as a vital element for both health and development. Quite often, health problems that women experience in old age are the result of inferior or lacking health care services at some earlier stages along the life-course.

Economic difficulties and low access to health services in many countries of the region have been identified as key obstacles in addressing the challenges of ageing. By and large, there are no satisfactory geriatric care services available for the elderly at the national level while the programs that do exist tend to be “rudimentary and fragmented”.<sup>151</sup> Most often the older persons, both men and women, are dependent on the support provided through family and extended kin networks, and particularly their children. However, changes in family structures amid changing values affect traditional patterns of family responsibility for the aged people, leading to situations when they cannot depend upon family-based care. Situation is somewhat paradoxical as governments in the region are still assuming that families will take care of their own elderly.<sup>152</sup> Another major challenge is lack of health care professionals dealing with ageing matters, including the need for special education of doctors and nurses.

According to the World Health Organization, access to, and utilization of, health care services is determined by “physical access or availability to services, economic access or affordability of services and social access or acceptability of these services”. In this context, “the freedom of movement, financial power and social status are all important determination in accessing health care.”<sup>153</sup> One could notice that older women in the region are disadvantaged on all three counts. According to ESCWA, the existing socio-economic conditions predicate that they suffer additional problems compared to men, namely lack of access to paid employment, lack of equal access to adequate health and

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151 Ibid. Just a few Governments in the region consider population ageing as “ a major concern” (see World Population Prospects 2009, Sales E.09. XIII.14, United Nations, 2010)

152 World Health Organization. Cross-cutting gender issues in women’s health in the Eastern Mediterranean Region, WHO, 2007, Document WHO-EM/WHD/011/E, p.10

153 ESCWA. Population ageing in Arab countries, E/ESCWA/SDD/2007/Technical Material.2.United Nations, New York, 2007,p.8

social services, and social and financial dependency.<sup>154</sup> Another aspect specific to the region is that the proportion of women among the widowed elderly is higher than for men. This is expected to raise the dependency ratio among elderly women and trigger a high proportion of households headed by elderly women who are poor and widowed.<sup>154</sup>

Poverty is the main concern for older persons in the region, and women are more likely than men to be living in poverty. Older women, along with some other groups like women with disabilities or women working in the informal sector, belong to a high risk group and are particularly vulnerable to poverty. This is directly connected to income generation activities as older women tend to be less involved in the labour force compared to older men. Apart from the above, poverty among older women is exacerbated “by the cramped living conditions in urban centers and by a social security law essentially focused on the male breadwinner in the formal sector, whose right to social security determines a woman’s right to maintenance”.<sup>155</sup>

The lack of pension systems and schemes or their limited capacity to provide means of subsistence to older women, is bound to increase women’s dependence and lack of individual autonomy. Across the region, women’s decision-making power has been limited in many areas and male members (or the entire family) often have the primary say in matters related but not limited to finances, freedom of movement, children’s education, or health-care seeking behavior.<sup>156</sup> In the face of deeply-seated cultural biases and attitudes, the capacity of women, including older women, to make choices of their own often is confined within pre-determined boundaries while their voices in society are subdued. Across the region, access to employment, decent work and to social protection, access to financial resources, housing, land and other productive resources which constitute the basis of ensuring women’s economic empowerment, remains limited. Despite some progress achieved in the health and education of girls and young women, much more needs to be done regarding the situation of older women. In certain cases, low status, negative stereotypes and absence of access to financial resources were factors leading to violence against older women.<sup>157</sup>

In light of the above, the vulnerability of older women in the region, particularly in some countries with deeply traditional and patriarchal societies, is wide-spread and may be considered as the cumulative result of numerous factors, including gender bias “materialized in the form of poverty, poor health and even marginalization”.<sup>158</sup>

### **International Platform.**

The United Nations has been a vital platform for addressing the issue of human rights

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154 Ibid.

155 Women’s Rights in the Arab world, GTZ, commissioned by Federal Ministry for Economic Cooperation and Development, Berlin, 2009, p.25

156 WHO, Cross-cutting gender issues in women’s health in the Eastern Mediterranean Region, op.cit. p.14

157 Implementing CEDAW and ending violence against women. Report on the workshop organized by the Inter-Parliamentary Union 27-29 July 2010, CL/187/11(g)-R.1

158 Madiha El Sufty, op.cit, p.146



of all people, women and men, young and old. Dignity of the individuals represents a value, a principle and a right and is at the core of all human rights instruments of the United Nations.

The Universal Declaration on Human Rights, 1948, together with the International Covenant on Civil and Political Rights, 1966 and the two Optional protocols thereto, and the International Covenant on Economic, Social and Cultural Rights, 1966, form the so-called International Bill of Human Rights. None of these documents explicitly refer to age as one of the prohibited grounds. It is assumed, however, that provisions of the above Covenants apply fully to all members of society, and older persons—both women and men—are entitled to enjoy the full range of rights recognized in the Covenants.

Among the international human rights treaties, the Convention on the Elimination of All Forms of Discrimination against Women, 1979, spelled out the meaning of equality between women and men, as well as the ways and means in achieving it, reaffirming faith in fundamental human rights and worth of every person. Age, however, was mentioned in the Convention only in passing, in connection with respect to the right to social security.<sup>159</sup>

Analysis of all principal human rights documents reveals, however, that failure to identify age as a prohibitive ground for discrimination in these documents has led to a situation where the discriminatory experiences of older persons become obscured. In addition, the standards which offer older women and men protection are dispersed through various human rights documents. As a result, the numerous obligations on States vis-à-vis older persons which are implicitly present in the United Nations human rights instruments, remain largely invisible for both Governments and the general public, while the obligations on private sector actors and individuals are not well developed. There is evidence that existing human rights instruments, notwithstanding their political significance, are lacking capacity to effectively protect the rights of older persons in general and older women in particular.<sup>160</sup>

Two possible breaches regarding the implementation of the human rights provisions contained in the legal instruments should be noted: “the implementation gap” and “normative gap”. The first occurs when the State parties fail to abide by the commitments that they have signed onto through human rights conventions. In this case international standards have been elaborated and are in existence but are not incorporated into domestic legislation and procedures for various reasons, including lacking institutions and other actors competent to implement measures that would result in the fulfillment

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<sup>159</sup> In recent years, there has been a growing pressure on the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) to address the rights of older persons in more detail; as a result the work started on the preparation of general recommendation on that matter, to require State Parties to provide information about the status of older women in their countries. This issue will be considered at the upcoming October meeting of CEDAW in Geneva

<sup>160</sup> For more details, see: United Nations. Follow-up to the Second World Assembly on Ageing. Report of the Secretary-General, A/64/127, 6 July 2009

of the relevant rights. The second, "normative gap" occurs where the current provisions fail to provide specific guidance on how to give content and effects to existing norms, convincingly addressing existing practices which deny rights. There is an open question whether the implementation gap "is a result of the normative gap, given that existing instruments or provisions have not been successful at providing either the incentive or safeguard to protect the rights of older persons".<sup>161</sup>

As a result of the above-mentioned gaps, the existence of various instruments and undertakings, older persons, not to mention older women, continue to be "invisible", facing barriers in their participation as equal members of society as well as violations of their human rights.

Apart from the human rights approach, another track taken by the international community in approaching the issue of ageing and gender has been exemplified by inter-governmental policy documents on ageing such as two major Plans on Ageing-- by the Vienna International Plan of Action on Ageing adopted by the first World Assembly on Ageing in Vienna, Austria, in 1982 and by the Madrid International Plan of Action on Ageing, adopted by the Second World Assembly on Ageing in Madrid, Spain, in 2002. These vital international policy documents recommended a variety of initiatives aimed at strengthening the capacity of Governments and civil society to deal effectively with the population ageing. The adoption by the General Assembly in 1991, in between the World Assemblies of the United Nations principles for Older Persons<sup>162</sup>, constituted another essential element in building an international policy framework on ageing geared at promoting ageing consideration into national development programmes. Underscoring the contribution that older persons make to their society, and recognizing the people's faith in fundamental human rights, the 18 principles were grouped under five quality-of life characteristics: independence; participation; care; self-fulfillment and dignity. The policy guidance provided under these five Principles correlates well with the rights encoded in the International Covenant on Economic, Social and Cultural Rights.

The adoption of the Madrid International Plan of Action on Ageing signified a shift from the previous policy frameworks, linking ageing and development, and promoting the view of ageing from the perspective of both developing and developed countries. The gender dimension was firmly underscored throughout the text of the Plan. The Madrid Plan was informed by a policy discourse on gender that took place in the context of the Fourth World Conference on Women, 1995 and the adoption of the Beijing Declaration and Platform for Action, as well by the outcomes of other high level events and Summits. Article 6 of the Madrid Political Declaration recognized "the need to mainstream a gender perspective into all policies and programmes to take account of the needs and experiences of older women and men". The Plan stresses that "the situation of older

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161 Ibid

162 UN General Assembly Resolution 46/91

women everywhere must be a priority for policy action. Recognizing the differential impact of ageing on women and men is integral to ensuring full equality between women and men and to the development of effective and efficient measures to address the issue. It is therefore critical to ensure the integration of a gender perspective into all policies, programmes and legislation” (para.8). In recommendations for action a goal is identified “to take measures to enable the full and equal participation of older persons, in particular older women, in decision-making at all levels” (para.22). Employment issues such as participation of older women in the labour market is mentioned in the context of deserving special attention (para.25). The empowerment dimension is not forgotten either: policy makers are urged to ensure that “the rights of older women in rural and remote areas are taken into account with regard to their equal access to and control of economic resources” (para.32). On the other hand, special social protection measures are required to address feminization of poverty, in particular among older women” (para.46). The call is made to raise awareness and protect older persons from physical, psychological, sexual and financial abuse, inter alia, in emergency situations, paying particular attention to the special risks faced by women (para 55). The plan also mentions some harmful traditional and customary practices that result “in abuse and violence directed at older women, often exacerbated by poverty and lack of access to legal protection” (para 108).

In the context of health promotion and well-being throughout life, a special mention is made regarding the need to ensure that “gender-specific primary prevention and screening programmes are available and affordable to older persons” (para. 67). The caregiving role of older women is also highlighted; an objective is seen in identifying measures to assist older caregivers, addressing at the same time their specific social, economic and psychological needs (para. 106)

A comprehensive and multifaceted document, the Madrid plan is in many ways a manifestation and example of a gender-mainstreaming effort undertaken in a key international policy document. An intergovernmental policy approach that pays attention to all age groups with the objective of creating a society for all ages and a shift from development policies for older persons towards inclusion of older persons in the policy making process were major outcomes of the Second World Assembly on Ageing in Madrid.<sup>163</sup> This shift provides the foundation for participatory approaches which consist of taking the views and opinions of older persons into account when developing and implementing policies that affect them; through the Madrid Plan Governments committed themselves to furthering the active participation of older persons in society.

As exemplified by the first review and appraisal of the Plan done in the context of the intergovernmental policy process at the United Nations, the results of the implemen-

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163 For more details see Sergei Zelenev “Towards a “society for all ages”: meeting the challenge or missing the boat” *International Social Science Journal*, Wiley-Blackwell & UNESCO, December 2006, 190; Sergei Zelenev “The Madrid Plan: a comprehensive agenda for an ageing world” in UN/DESA study *Regional Dimensions of the Ageing Situation*, 2008, op.cit



tation of the Madrid Plan on the national level have been mixed.<sup>164</sup> There have been some important achievements at the national level, particularly regarding introduction of new laws and creation of institutional and legal infrastructure, in the service delivery for older persons, and in income support activities. However, they pale in comparison with the scale of challenges that still exist on both the ageing and gender fronts. Age-based discrimination is a reality existing in many societies and older women often face double discrimination; there is a wide-spread global inequality in availability and access to social protection; priority setting on ageing matters at the national level leaves much to be desired.<sup>165</sup> The Madrid Plan is not legally binding on Member States and no mandatory procedure exists to monitor its implementation, including monitoring of existing infringements on human rights or older persons and failure to fulfill many obligations and commitments undertaken previously. At the international level, the plight of older people has not been addressed directly on the MDG agenda. On the other hand, while linkages between implementation of the Beijing Declaration and Platform for Action and the achievement of the Millennium Development goals have been established, the lack of progress for women in relation to the Millennium Development Goals suggests that the global policy framework on gender equality and empowerment of women is still insufficiently used as a basis for policymaking and programming aimed at the achievement of the MDG agenda.<sup>166</sup>

In the Arab region, achievements regarding the situation of older persons have been primarily welfare-based.<sup>167</sup> But even welfare-based policies regarding older persons in general and older women in particular, remain very fragmented, while the rights agenda has not yet generated sufficient support and momentum to become a deciding force in shaping policy agenda. According to ESCWA, more work is still required in terms of the following: advocacy from a human rights perspective, collection of data, survey analysis, programme management, policy formulation and monitoring.<sup>168</sup> The gaps discussed above matter in the implementation context, but what also matters is the situation on the ground. For example, a range of cultural, social, political, and legal factors contribute to women's lack of property and inheritance rights, and pursuit of gender equality in this area has been one of the most difficult challenges in many countries owing to the complexity as well as entrenched patriarchal characteristics of social-economic, cultural and religious practices.<sup>169</sup> Lack of effective enforcement mechanisms makes implementation of even existing legal provisions contained in the Conventions and other UN policy instruments problematic at the national level.

United Nations policy instruments involving human rights are documents written on the principle of universality. When some countries are lodging reservations to the

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164 For detailed analysis and results of the first review and appraisal see the Reports of the Secretary-General E/CN.5/2008/2, E/CN.5/2008/7 and A/63/95

165 Ibid.

166 Economic and Social Council, Report of the Secretary-General E/2010/4-E/CN.6/2010/2

167 ESCWA, Population ageing in Arab countries, op.cit., p.7

168 Ibid.

169 UN-HABITAT. Progress report on removing Discrimination against Women in Respect of Property & Inheritance Rights, Nairobi, August 2006

existing provisions of the CEDAW or any other legally-binding instruments negotiated through the United Nations, using religious or other grounds, they weaken the essential substance and implementation mechanism of such conventions, making prevention of possible abuses based on local customs and practices much more difficult. In this context, steps should be taken to ensure that provisions of multiple legal systems comply with international human rights standards, including the principle of non-discrimination. Discriminatory laws/provisions should be repealed and legal and policy reforms continued to ensure full compliance with international obligations undertaken by the State Parties.<sup>170</sup>

There are numerous steps, big and small, that could be taken in the region to improve the situation of older women. Quite often, many steps are interconnected. First of all, greater efforts are required to ensure the effective implementation as well as the enforcement of the existing gender sensitive non-discriminatory legal frameworks, including access to justice and recourse procedures, strengthening women's knowledge of their rights, involving men and boys in legal literacy programmes. Institutional mechanisms for the advancement of women, including establishment of pertinent national machinery -- from the focal points in line ministries to national committees for gender equality-- is also essential. Ability of different stakeholders to coordinate their actions and collaborate with each other in the most effective manner is another important dimension.

The importance of small steps should not be underestimated, particularly when these steps increase the sensitivity of policymakers and society at large to nexus of gender and ageing, address institutional ageism or change the prevailing negative stereotypes.

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170 Report of the Secretary-General E/2010/4-E/CN.6/2010/2, op.cit