CHAPTER IV

GLOBAL STANDARD UNDER INTERNATIONAL HUMAN RIGHTS LAW FOR THE PROTECTION AND PROMOTION OF THE INTEREST OF AGED PEOPLE

Outline
I. Introduction
II. Development of Law at International level
III. Other international documents for the protection of interest of aged persons
IV. Regional instruments for protection of interest of older persons
V. Conclusion

I INTRODUCTION

We are living in a rapidly ageing world today. The number of elderly people is growing at an alarming pace. Ageing of population is primarily the result of reductions in fertility and mortality. The demographic studies indicate that the percentage of older people to the total population is on the rise steadily during the last about 55 years. In 1950 there were about 200 million people world over above the age 60 years. In 1975 the number grew to 350 million and in 2000 it grew to 590 million. As per estimates this number may grow to 1.1 billion by the year 2025, which would be over 14% of the population then. Women constitute majority of the old population. About 70% of the people would be in the developing countries like India. Women live longer than men and over 75% of the people above the age of 80 years are women.¹

These demographic trends create unique challenges for all people, particularly for the governments of nation-states around the globe. Elderly individuals are often subject to discrimination and abuse because they are perceived as easily taken advantage of. There is also a prevalent belief among many that elderly persons are worthless in today's fast-paced, globalized and increasingly industrialized world. Obviously, with the number of elderly people on earth at any one time rising rapidly, there is an increased urgency to address the rights and roles of elderly persons in our world.

Ageing of population is a product of improved public health, sanitation and development. Large numbers of the world’s older people however live in poverty, neglect and exclusion. Worldwide, poverty during old age is linked to poor diet, ill health, inadequate housing and isolation. These and other socio-economic reasons make the elderly people an important and major vulnerable group in the society. Older widows are among the poorest and most vulnerable groups in developing countries.²

Every day we come across reports of older people being attacked, harassed and isolated by anti-social elements, neighbors and even their families. There are instances of old persons being locked-up, denied food, permission to meet other supportive relatives and access to the telephone and post by their children trying to extort money or property from them. There are several reports of thefts and killings of old people living separately by domestic servants, hawkers and other.³

² Ibid, p.194
³ Ibid, p.194
Many governments have support systems in place for elderly persons such as social security and free or discounted medical care, for example. However, most of these systems were built on the premise that there will always be significantly fewer older persons than younger or middle-aged individuals living at one time. Because of declining death rates, therefore, these systems are beginning to feel a strain that will only increase over time. Additionally, the older-person support ratio is falling in both more and less developed regions, which could further lessen the ability of societies and governments to care for their aging populations.

The modern human rights thought envisages an inclusive society for an ageing population and considers older persons as full and equal citizens enjoying full and equal rights. The aim of all national policies on Ageing must address the need to empower elderly persons to take decisions with a view to lead active, creative and satisfying life. We need to again establish human rights culture in our society which would facilitate welfare of this important segment of the population.4

In this backdrop an attempt is made to take review of international efforts in the protection and promotion of rights of aged people. What are the instrument/ documents evolved at international level and how the provisions of the same are working, is there any problem in the adoption and implementation of the same etc. is the province of study in this part of research.

4 Ibid, p195
II DEVELOPMENT OF LAW AT INTERNATIONAL LEVEL

The question of ageing was first debated at the United Nations in 1948 at the initiative of Argentina. The issue was again raised by Malta in 1969. In 1971 the General Assembly asked the Secretary-General to prepare a comprehensive report on the elderly and to suggest guidelines for the national and international action. In 1978, Assembly decided to hold a World Conference on the Ageing. Accordingly, the World Conference on Aging was held in Vienna from July 26 to August 6, 1982 wherein an International Plan of Action on Ageing was adopted. The overall goal of the Plan was to strengthen the ability of individual countries to deal effectively with the ageing in their population, keeping in mind the special concerns and needs of the elderly. The Plan attempted to promote understanding of the social, economic and cultural implications of ageing and of related humanitarian and developed issues. The International Plan of Action on Ageing was adopted by the General Assembly in 1982 and the Assembly in subsequent years called on governments to continue to implement its principles and recommendations. The Assembly urged the Secretary-General to continue his efforts to ensure that follow-up action to the Plan is carried out effectively.⁵

In addition to above there are some more efforts taken at international level by enacting various documents and instruments having the direct provisions for the protection of interest of aged people. The review of all these have been taken and discussed herein below.

⁵ Rakesh KR. Singh, Rights of Senior Citizens: Need of the Hour, Indian Bar Review Vol. XXXIII (1 to 6) 2006, p128
INTERNATIONAL BILL OF RIGHTS

Human Rights are natural rights of every individual, acquired by birth and not given by any law or Constitution. They are essential for all round development of all human beings. The United Nations slogan has been "All human rights for all". The Second World War gave birth to the United Nations. The UN Charter of 1945 and the Universal Declaration of Human Rights 1948 serve as reference points for modern human rights concept and mechanisms. The Bill of Human Rights consists of the following three documents.\(^6\)

- International Covenant Civil and Political Rights, 1966

Article 55 of the Charter of United Nations pledges member States of the United Nations to promote higher standards of living for all people, social and economic progress, and international cooperation on social issues including health and education and universal respect for human rights regardless of individual background or characteristics.\(^7\)

The UDHR serves as a guiding document but a force of law and once any Member State of the United Nations ratify them the principles are required to be reflected adequately in the domestic policies, laws and procedure. These two Covenants came into force in 1976. It is an accepted principle of international law that the human rights is a legitimate subject for international scrutiny and the agencies of the governments are obliged to know and

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\(^6\) Ibid, p196

\(^7\) http://www1.umn.edu/humanrts/instree/auncharter.html, accessed on 22/1/2009
implement the provisions in the international standards of human rights.\(^8\)

According to Article 25 of the UDHR “everyone has the right to a standard of living adequate for the health and well being of himself and his family, including food, clothing, housing and medical care and necessary social services 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”.

**INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (1966)**
The International Covenant on Economic, Social and Cultural Rights (1966) imposes an obligation on the state with respect to dignity full treatment. It says that each State Party undertakes to respect and to ensure to all individuals rights without distinction of any kind. No one shall be subjected to torture or to cruel, inhuman or degrading treatment. In particular, no one shall be subjected without his free consent to medical experimentation. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. No one shall be subjected to arbitrary or unlawful interference with his privacy, family and home.

**INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (1966)**
The International Covenant on Civil and Political Rights, 1966, prohibits the international gender discrimination in case of employment and imposes obligation on the state that, States Parties

\(^8\) *Ibid*, p196
shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular: the right to work; the right to the same employment opportunities; the right to promotion, job security and all benefits and conditions of service; the right to social security, particularly in cases of retirement, sickness, invalidity and old age. States Parties shall eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services. States Parties shall eliminate discrimination against women in rural areas in order to ensure in particular the right to benefit directly from social security programs; to enjoy adequate living conditions.™

FIRST WORLD ASSEMBLY ON AGING, 1982
First World Assembly on Ageing in 1982 at Vienna, Austria, observed that increasing number of population is ageing and hence all countries should apply policies to enhance lives of ageing and to allow them enjoy, in mind and body, fully and freely, their advancing years in peace, health and security.

The World Assembly also observed the need to all fundamental and inalienable rights in the UDHR to the ageing and to ensure longevity and quality of life by enabling the ageing to enjoy in their own families and communities a life of fulfillment, health, security and contentment as an integral part of society.™

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™ ibid.
INTERNATIONAL PLAN OF ACTION ON AGING (VIENNA PLAN) (Endorsed by U.N. General Assembly in 1982)\textsuperscript{11}

The plan was aimed at strengthening capacities of the governments and civil society to deal with ageing of populations and to address development potential and dependency needs of older persons.

There were 62 recommendations in this plan of Action covering research, data collection and analysis, training and education, health and nutrition, protection of elderly consumers, housing, environment, family, social welfare, income security, employment, education etc.

U.N. PRINCIPLES FOR OLDER PERSONS, 1991\textsuperscript{12}

The U.N. Principle aim to ensure that, the priority attention will be given to the situation of older persons. The UN principles address the independence, participation, care, self-fulfillment and dignity of older persons.

It provides that, the standards already set by the International Plan of Action on Ageing and the conventions, the World Health organization and other United Nations entities, encourages governments to incorporate the following principles into their national programs whenever possible.

As a part of independence it provides that, older persons should have access to adequate food, water, shelter, clothing and health care through the provisions of income, family and community support and self-help. Further it provides that, older persons should have access to adequate food, water, shelter, clothing and health care through the provisions of income, family and community support and self-help.


\textsuperscript{12} www.un.org/ageing/un_principles, accessed on 22/01/2009
persons should be able to live in environments that are safe and adaptable to personal preferences and changing capacities.

Second Principle of Participation, it provides that, older persons should remain integrated in society, participate actively in the formulation and implementation of policies that directly affect their well-being and share their knowledge and skills with younger generations. Further, older persons should be able to form movements or associations of older persons. That means it recognizes the right to form associations of older persons. This is a very material provision.

Third Principle of Care, it provides that, older persons should have access to health care to help them to maintain or regain the optimum level of physical, mental and emotional well-being and prevent or delay the onset of illness. To enhance their autonomy, protection and care, older persons should have access to social and legal services. It further provides that, older persons should be able to enjoy human rights and fundamental freedoms when residing in any shelter, care or treatment facility, including full respect for their dignity, beliefs, needs and privacy and for the right to make decisions about their care and the quality of their lives.

Fourth Principle of Self-fulfillment, it provides that, older persons should be able to pursue opportunities for the full development of their potential and should have access to the educational, cultural, spiritual and recreational resources of society.

Lastly to confer Dignity, it provides that, older persons should be able to live in dignity and security and be free of exploitation and physical or mental abuse. Further it provides that,
older persons should be treated fairly regardless of age, gender, racial or ethnic background, disability or other status and be valued independently of their economic contribution.

INTERNATIONAL FEDERATION ON AGEING
THE MONTREAL DECLARATION

This document is the result of more than year of deliberations and input from member groups of the International Federation on Ageing throughout the world. A draft was presented and reviewed at the IFA Fourth Global Conference on Ageing in Montreal, Canada. It was officially released and turned over to the United Nations Ageing Unit at the closing plenary session of the Conference on Wednesday, September 8, 1999.

Many older persons throughout the world lack access to the essentials of life as the result of discrimination on the basis of age, disability, ethnicity, race, gender or religion, or because of employment practices and legislative barriers.

Women, as the majority of the ageing population, suffer disproportionately from poverty, poor health and isolation. Older persons with disabilities face cultural and socio-economic barriers which impact on their quality of life. Developing countries face the most rapid rate of population ageing and the greatest economic difficulties, but lack the necessary financial, social and health infrastructures to address these issues.

The devastating effects of conflict and illnesses such as AIDS have drastically altered the population structure of some countries, exposing older persons to greater vulnerability. Changes

in family patterns, structures and life styles can have a detrimental impact on older persons.

**Recommend to the United Nations that all National Plans on Ageing:**

- Assure the universal access of older persons to economic security, food, healthcare, shelter, clothing and transportation.
- Assure the full participation of older persons in the social, cultural and political life of their communities.
- Assure that the dignity and quality of care for older persons are established, maintained and safeguarded, and that older persons are free from exploitation and mental and physical abuse.
- Assure that employment barriers for older persons are eliminated by the provision of training and work opportunities and appropriate work conditions.
- Strengthen the capacity of the family and community to provide basic care and support for older persons.
- Strengthen opportunities for intergenerational dialogue, exchanges, collaboration and mentoring.
- Incorporate Universal Design principles to assure older persons access to all environments.
- Strengthen the ability of the public, private, voluntary, and non-governmental sectors to work together for the benefit of older persons.

**INTERNATIONAL YEAR OF OLDER PERSONS, 1999**

During the year special emphasis was given on

- Situation of older persons,
- Individual life long development,
- Relationship between generations,
- Inter-relationship between ‘Population Ageing’ and ‘Development’

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SECOND WORLD ASSEMBLY ON AGING AND POLITICAL DECLARATION (MADRID PLAN OF ACTION)

The Madrid Plan lists 33 objectives and 117 concrete recommendations grouped into 3 priorities:\(^{15}\):

- Older persons and development
- Advancing health and well being into old age.
- Enabling and supportive environments.

The plan sets out a vision and values for a society for all ages. The plan concludes with a section on implementation and follow-up and calls for changes in attitudes, policies and practices.

The issues covered by the Madrid Plan are:

- Active participation in society and development.
- Work and the ageing labour force.
- Rural development, migration and urbanization.
- Access to knowledge, education and training.
- Intergenerational solidarity.
- Eradication of poverty.
- Income security, social protection/security and poverty prevention.
- Emergency situations.
- Health promotion and well being throughout life.
- Universal access to health care services.
- Older persons are HIV/AIDS
- Training of care providers and health professionals.
- Mental health needs of older people.
- Older people and disabilities.
- Housing and the living environment.
- Care and support for caregivers.
- Neglect, abuse and violence.
- Images of ageing.

THE TORONTO DECLARATION ON THE GLOBAL PREVENTION OF ELDER ABUSE
(17 November, 2002)\textsuperscript{16}

This declaration was devised at an expert meeting, sponsored by the Ontario Government in Toronto, 17 November, 2002.

Abuse of older people has only recently been recognized as a global problem. INPEA's advocacy work and the emphasis given to elder abuse prevention by the World Health Organization have contributed significantly to raising awareness worldwide. Academic institutions, around the world, have also substantially contributed to enhancing understanding and rising awareness and have developed methodological tools to study the problem. However, much is still to be done.

On one hand more research is needed for instance, along the lines of the seminal joint project "Global Response to Elder Abuse" which resulted in the publication "Missing Voices-Views of Older Persons on Elder Abuse" and on the other hand practical action at local, regional and national levels.

Twenty or thirty years ago, societies throughout the world denied the existence of violence against women and child abuse. Then, through research, came the evidence. As a result the civil society exercised the appropriate pressure for action from governments. The parallel with elder abuse is clear.

This declaration is a Call for action aimed at the Prevention of Elder Abuse, Points to be considered:

- Legal frameworks are missing. Cases of elder abuse, when identified are often not addressed for lack of proper legal instruments to respond and deal with them.

\textsuperscript{16} http://www.who.int/ageing/projects/elder_abuse, accessed on 22/01/2009.
• Prevention of elder abuse requires the involvement of multiple sectors of society.
• Primary health care workers have a particularly important role to play as they deal with cases of elder abuse regularly although they often fail to recognize them as such.
• Education and dissemination of information are vital both in the formal sector (professional education) and through the media (combating the stigma, tackling the taboos and helping to de-stereotype older people).
• Elder abuse is a universal problem. Research conducted so far shows that it is prevalent in both the developed and the developing world. In both, the abuser is more often than not well known to the victim, and it is in the context of the family and/or the care unit that most of the abuse happens.
• A cultural perspective is mandatory in order to fully understand the phenomenon of elder abuse – i.e. the cultural context of any particular community in which it occurs.
• Equally important is to consider a gender perspective as the complex social constructs related to it help to identify the form of abuse inflicted by whom.
• In any society some population sub-groups are particularly vulnerable to elder abuses – such as the very old, those with limited functional capacity, women and the poor.
• Ultimately elder abuse will only be successfully prevented if a culture that nurtures intergenerational solidarity and rejects violence is developed.
• It is not enough to identify cases of elder abuse. All countries should develop the structures that will allow the provision of services (health, social, legal protection, police referral, etc) to appropriately respond and eventually prevent the problem.

The United Nations International Plan of Action adopted by all countries in Madrid, April 2002, clearly recognizes the importance of Elder Abuse and puts it in the frame-work of the
Universal Human Rights. Preventing elder abuse in an ageing world is everybody's business.

III OTHER INTERNATIONAL DOCUMENTS FOR THE PROTECTION OF INTEREST OF AGED PERSONS

The following are the international treaties, declarations and commitments that determine standards for the protection of the rights of elderly persons:

**Convention relating to the Status of Refugees (1951)**

Article 24 of this convention establishes that States shall treat refugees lawfully abiding in their territory with the same respect for rights as other nationals including providing for a refugee's social security in the event of sickness, disability or old age. As elderly refugees can face very specific challenges from other refugees, this article is particularly applicable to them and their legal rights.

**Declaration on the Rights of Disabled Persons (1975)**

This declaration defines the status of disabled persons. As some elderly persons often suffer from various types of disabilities, the rules established in this declaration are also applicable to them. Disabled people are entitled to all measures designed to assist them in becoming as self-reliant as possible. If a disabled person must stay in an institution for assistance, that individual is entitled to living conditions that come as close as possible to those of other people of the same age. Disabled persons are protected from exploitation and abuse. Organizations of disabled persons are to play a useful consulting role in any issue regarding the rights of the disabled.\(^\text{17}\)

\(^{17}\) *Ibid*, Articles 5, 9, 10, 12
ILO Recommendation No. 162 concerning Older Workers (1980) This recommendation states that older workers must enjoy equality of opportunity and treatment with other workers without age discrimination, including access to housing, social services and health institutions, particularly when this access is related to occupational activity or employment.

Declaration on the Elimination of Violence against Women (1993) This document’s focus is on violence against women as both a violation of their rights and as an obstacle to achieving equality. It outlines the types of violence often committed against women and brings special attention to groups of women that are particularly vulnerable, including elderly women.

Convention on the Elimination of All forms of Discrimination against Women

This provides “States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular: the right to work; the right to the same employment opportunities; the right to promotion, job security and all benefits and conditions of service; the right to social security, particularly in cases of retirement, sickness, invalidity and old age. State Parties shall eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, eliminate discrimination against women in rural areas in order to ensure, in particular the

18 Section II, Para. 5(g), www.ilo.org/ilolex/cgi-lex/convde.pl?R162, accessed on 22/01/2009.
right to benefit directly from social security programmes; to enjoy adequate living conditions.”\textsuperscript{20}

**Cairo Program of Action**

It lays emphasis on the welfare of aged people has objectives “to develop systems of health care as well as systems of economic and social security in old age paying special attention to the needs of women; to develop a social support system with a view to enhancing the ability of families to take care of elderly people within the family Governments should seek to enhance the self-reliance of elderly people to facilitate their continued participation in society. In consultation with elderly people, governments should ensure that the necessary conditions are developed to enable elderly people to lead self-determined, healthy and productive live and to make full use of the skills and abilities they have acquired in their lives for the benefit of society and governments, in collaboration with non-governmental organizations and the private sector, should strengthen formal and informal support systems and safety nets for elderly people and eliminate all forms of violence and discrimination against elderly people in all countries paying special attention to the needs of elderly women.”\textsuperscript{21}

**Copenhagen Declaration**

Copenhagen Declaration declares that the State will create action to; Improve the possibility of older persons achieving a better life. Develop and implemented policies to ensure that all people have

\textsuperscript{20} Articles 11, 12 and 14
\textsuperscript{21} Paras, 6.17, 6.19 and 6.20
adequate economic and social protection during widowhood, disability and old age.”\(^{22}\)

**Beijing Platform for Action**

Beijing Platform for Action has shown the concern for the older women. It says with the increase in life expectancy and the growing number of older women, their health concerns require particular attention. It also says that diseases of ageing and the interrelationships of ageing and disability among women need particular attention. Develop information programs and services to assist women to understand and adapt to changes associated with ageing and to address and treat the health needs of older women. Discrimination in hiring and remuneration, promotion continue to restrict employment, economic professional and other opportunities for women. Actions to be taken: Adopt and implement laws against discrimination based on sex in the labour market, especially considering older women workers, hiring and promotion, the extension of employment benefits and social security and working conditions.”\(^{23}\)

**Habitat Agenda**

It declares that older persons are entitled to lead fulfilling and productive lives and should have opportunities for full participation in their communities and society and in all decision-making regarding their well-being especially their shelter needs. Their many contributions to the political, social and economic processes of human settlements should be recognized and valued. Special attention should be given to meeting their evolving housing and

\(^{22}\) Para 26 and Commitment 2  
\(^{23}\) Paras, 101, 106 and 165
mobility needs in order to enable them to continue to lead rewarding lives in their communities. It also says that, the shall promote shelter and support basic services and facilities for education and health for older persons.”

IV REGIONAL INSTRUMENTS FOR PROTECTION OF INTEREST OF OLDER PERSONS

COUNCIL OF EUROPE

European Social Charter (1961)

This charter indirectly clarifies rights that are applicable to the situations of many elderly people: the need for a system of social security and medical care. European states are obligated under this charter to eradicate, as far as science will currently allow, the sources and conditions of ill-health as well as prevent the spread of disease. They are also committed to developing systems of social security for those who lack the resources to provide for their own security. Those individuals are also entitled to receiving appropriate medical care for when their condition necessitates it.

Screening and Surveillance of Elderly-Persons (1987)

Screening and surveillance of elderly persons should be conducted in order to prolong life of a high quality, “improve subjective well-being,” enhance the ability of elderly persons to function socially and prevent and lessen the impact of diseases. Hence, this recommendation suggests that member States should develop facilities for screening and surveillance of the elderly and motivate

24 Paras 17 and 40
the elderly to attend these screenings. Additionally, all health staff involved with these facilities should receive training in geriatric medicine and gerontology. Finally, the collection of relevant data is encouraged so that these facilities will become more effective in the future.26

Social Cohesion and Quality of Life (1994)
This recommendation was developed due to concern over the increasing numbers of elderly persons in Europe and their tendency toward social exclusion, particularly the exclusion of elderly women, due to the fact that they tend to outlive men by several years. This recommendation is extremely short. However, the Appendix provides guiding principles for member states to follow when developing policies concerning the welfare of elderly people. The recommendation recognizes that the majority of elderly peoples actually live their lives autonomously and is, “in principle not more dependent than the population as a whole.” It also recognizes the value of elderly people to the general population, particularly younger generations. It recognizes the right of elderly persons to continue to live a high quality of life and to live securely. The elderly should also be enabled to live as autonomously as possible and continue to make their own choices. Elderly individuals should be able to participate fully in their society and have the resources to enable them to do that. Governments should work to prevent the social exclusion of the elderly. Information on issues pertinent to the elderly should be

readily available to them as well as other individuals in their networks of security.\textsuperscript{27}

**Medical and Welfare rights of the elderly: ethics and policies**

This recommendation was composed due to the concern that traditional rules and systems of social welfare are at risk of being dismantled because of the financial considerations of prominent lobbies in governments: scientific, medical and economic. Because of the aging of much of Europe's population, this is of particular concern. For central and eastern European countries, it is recommended that short-term measures are taken to secure the welfare of elderly persons due to the often unstable political and economic situations in many states of the region. The recommendation suggests that states in this region of Europe guarantee minimum incomes that will provide for the security of the elderly population. Additionally, eastern European governments are advised to prevent the deterioration of the public health system and provide for affordable medical care for the aged, provide for local services for the elderly and hone the effectiveness of existing social programs for this population. As to Western Europe, the recommendation suggests member states develop an employment and labor policy to carve out a new nook in society for the participation of the elderly, draw up a solid retirement and pension policy, and control public healthcare costs and increase local services for the elderly.\textsuperscript{28}

\textsuperscript{27} Recommendation R (94)9, www.hrea.org/aged.html, accessed on 22/1/2009
\textsuperscript{28} Recommendation 1254 of 1994, assembly.coe.int/Documents/AdoptedText/ta94/erec1254.htm, accessed on 22/1/2009

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Every elderly person is entitled to social protection. Elderly persons should be enabled to remain full participants and contributors to society for as long as possible. They should have ready access to services and resources to make this possible. Elderly persons should retain the right to live freely and retain their independence for as long as they desire or are capable of doing. They should also have access to suitable housing for their needs as well as access to health care. Those aged persons who are institutionalized should be guaranteed any necessary support, but should also have access to privacy and have the right to contribute to decision-making in the institutions in which they are staying.29

Future of Senior citizens: protection, participation & promotion
This recommendation was developed after the United Nations declared 1999 the “International Year of Older Persons.” It also recognizes the development of the Group of Specialists on Optimizing the Living Conditions of Elderly Dependent People within the Council of Europe. A couple of heretofore unmentioned concerns about the elderly include those older persons living in rural areas and the extreme disparities between their living conditions. The recommendation also encourages research to be done on the elderly at the national level so that programs can be tailored to the unique challenges of older persons in certain geographical locations. Additionally, it encourages states and local governments to develop new measures for the protection, increased

29 part II, Article 4, wwwl.umn.edu/humanrts/instree/apeuropeansocialcharter.htm, accessed on 22/1/2009
societal participation and creation of a more positive image for the elderly.\textsuperscript{30}

**EUROPEAN UNION**


This recent charter recognizes the right of the elderly to live in an independent and respectable manner and be active participants in social and cultural life of member states. In the event of old age, individuals are also secured the right to social security benefits as well as social services. Additionally, those who lack sufficient resources are entitled to decent housing. Everyone is entitled to preventative healthcare and medical treatment as provided for by national law.\textsuperscript{31}

**ORGANIZATION OF AMERICAN STATES (OAS)**

**American Declaration of the Rights and Duties of Man (1948)**

This declaration states that all people have the right to be able to maintain their standard of health within the resources of the community or state. Additionally, in the event of old age, one is entitled to social security in order to maintain an adequate standard of living.\textsuperscript{32}

**American Convention on Human Rights (1969)**

This convention establishes that everyone has the right to humane treatment, which is important, as the elderly are often victims of neglect and abuse.\textsuperscript{33}


\textsuperscript{31} www1.umn.edu/humanrts/instree/europeanunion2. accessed on 24/1/2009

\textsuperscript{32} Ibid Article 11, 16

\textsuperscript{33} Ibid Article 5, 6,
Similar to the American Declaration of the Rights and Duties of Man, the this protocol establishes that, in the event of old age, one is entitled to social security in order to maintain an adequate standard of living. Additionally, if this individual is to die, and has dependents, the dependents will receive social security benefits at the time of the individual’s death. Article 17 specifically states that special protection is an entitlement of persons of old age. Elderly persons who cannot provide themselves have the right to acceptable facilities, food and medical care. Also, elderly persons actually have the right, according to this document, to participate in work programs that allow individuals to participate in productive work consistent with their needs and wants. Member states are, furthermore, obligated to aid in the establishment of social organizations created in order to improve the lives of elderly persons.34

Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (1994)
This convention declares that all women have the right to be free from violence and discrimination in all of its forms, which includes elderly women, who are particularly susceptible to violence35.

The first charter of the African Union dealing with human rights recognizes the basic, specific right of aged and/or disabled persons

34 Article 9, 10, 11, 12, 17 and 18, www1.umn.edu/humanrts/oasdrtr/oas10pe.htm, accessed on 21/1/2009
35 www.hrea.org/erc/Library/display/php? accessed on 21/1/2009
to special measures of protection and security according to their needs, both physical and moral.\(^2\)

**LEAGUE OF ARAB STATES**

**Arab Charter on Human Rights (1994)**
Every citizen of states in the League has the right to comprehensive social security. Although detail is lacking on rules of implementation for member states, the charter recognizes that member states will also provide care for the aged.\(^3\)

**The Cairo Declaration on Human Rights in Islam (1990)**
This declaration deals with the basic concerns of many elderly persons and their advocates: security and the means of providing for their basic needs. Everyone has the right to health and medical care within the capability of each state. Everyone has the right to live in security. All are entitled to a means of making a living that will enable each person to provide for food, clothing, medical care and any other basic need.\(^4\)

**V CONCLUSION**

Aging is a global phenomenon. The number of elderly people is growing at an alarming pace. The demographic studies indicate that, there were about 200 million people world over above the age 60 years. In 2000 it grew to 590 million. As per estimates this number may grow to 1.1 billion by the year 2025, which would be over 14% of the population then. This led to discussion at

\(^2\) Article 18, www1.umn.edu/humanrts/instree/z1afchar.htm, accessed on 22/1/2009
\(^3\) Ibid, Article 30 and 38
\(^4\) Ibid, Article 17 and 18
international level regarding rights of aged, protection and promotion of their interest by world community.


The perusal of the UDHR reveals that, Article 25 provides that, “everyone has the right to a standard of living adequate for the health and well being of himself and his family, including food, clothing, housing and medical care and necessary social services 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”. The importance of the above referred provision lies with the fact that, the right to standard of living adequate for the health and well being of him has been regarded as one of the basic right.

The analysis and careful study of the other two Covenants also reveals that, there is a recognition and importance given to certain rights like, independence, economic or financial security, social security and overall development of the citizens. These documents serve as guiding principles and have force of law only when the Member State ratifies the same. Once the same is ratified it is required to be reflected adequately in the domestic policies, laws and procedure.

In addition to above referred documents there are other efforts made at international level through different conventions.
First World Assembly on Ageing, 1982, at Vienna, carried out International Plan of Action on Ageing. The plan was aimed at strengthening capacities of the governments and civil society to deal with ageing of population and to address development potential and dependency needs of older persons. The United Nations Principles for Older Persons, 1991, also aim to ensure that the priority will be given to the situation of older persons. It covers the independence, participation, care, self-fulfillment and dignity of older persons. During International Year of Older Persons, 1999, special emphasis was given on situation of older persons.

The perusal of Second World Assembly on Ageing and Political Declaration and Madrid International Plan of Action on Ageing, 2002, also emphasizes and sets out a vision and values for a society for all ages. The Madrid Plan lists 33 objects and 117 concrete recommendations grouped into 3 priorities, viz. Older persons and development, Advancing health and well being into old age, and Enabling and supportive environments. The Toronto Declaration on the Global Prevention of Elder Abuse, 2002, appears yet another landmark step at International level. Abuse of older people has recently been recognized as a global problem. INPEA’s advocacy work and the emphasis is given to elder abuse prevention by the World Health Organization have contributed significantly to raising awareness worldwide.

In addition to the above referred documents, plan of action and declaration at international level, certain Regional arrangements and understandings have also been existed which provide and recognize certain rights of the aged people in that region. Prominent among them are Council of Europe, European
Social Charter 1961, which highlighted social security for those who lack the resources to provide for their own security, to receive medical care for when their condition necessitates it. Likewise many recommendations were given along with Additional Protocol to the European Social Charter. Charter of Fundamental Rights of the European Union 2000, is the recent charter recognizes the right of the elderly to live in an independent and respectable manner and be active participants in social and cultural life of member states.

American Declaration of the Rights and Duties of Man, 1948, American Convention on Human Rights, 1969, Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, 1988 and Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, 1994 are some of the material instrument or policy matters/decisions taken up by the Organization of American States. The careful review of all these reveals, that it consist different rights of the people in addition to the social security.

African Union, also bring African Charter on human and Peoples’ Rights, 1981 dealing with the specific right of aged and/or disabled persons to special measures of protection and security according to their needs, both physical and moral. The League of Arab States also having concern towards the rights of aged. Arab Charter on Human Rights, 1994, speaks about the right to comprehensive social security of every citizen of States in League. It also provide for the duty of Member State to provide care for the aged. The Cairo Declaration on Human Rights in Islam, 1990,
deals with the basic concerns of many elderly persons and advocate security and the means of providing for their basic needs.

The careful study and analysis of all these, demonstrate that, the growing population of aged people is a matter to be great concern of the world community. Hence various efforts appear to have been taken at International Level. These efforts reflect in various documents, conventions and Declarations. Not only the International community is serious with the problems and rights of the aged people, but also it appears that, certain Regional efforts have been made worldwide. These regional conventions and protocol are some special efforts taken at regional level which are in addition to the International documents. Hence perusal of the same reveals that, there is double protection afforded to the aged people at international level and much importance is given to the rights, protection and promotion of the interests of aged people at global level.

In fact, most of what has been accomplished in protecting the rights of the elderly has been done, thus far, in an intergovernmental international or regional setting. Many governments of nation-states, unfortunately, are experiencing serious crises in implementing or maintaining protection programs for their elderly citizenry. For example, currently, in the United States, the social security system is at risk of being overhauled and privatized, or, some fear, eventually dismantled. Additionally, Medicare, a healthcare system for people ages 65 and above, sometimes does not sufficiently cover the healthcare costs of those elderly people who are indigent, nor does it cover the cost of prescription medications. Furthermore, the cost of these
medications is rapidly rising. Many elderly citizens, unable to afford their medications, will skip doses. Some of these medications are necessary to the survival of these individuals.

In spite of efforts at international level to prepare for the ensuing crisis of our world’s aging population, it is widely recognized that the elderly are often victims of discrimination and abuse and that their unique needs are often not sufficiently met by their governments and communities. Elderly’s many rights are at stakes as mentioned herein after.

Elderly persons’ right to security is particularly vulnerable to violation. For example, a component of the right to security is the right to healthcare if one, due to old age, is unable to afford or pursue healthcare on one’s own. Although many countries currently have universal healthcare systems, these systems are beginning to feel the strain of an increasingly aged population, and there is some question about how these systems will be maintained in the future. In other countries, like the United States, where there are only federally and state-subsidized healthcare programs for those who are indigent, disabled or elderly, rising healthcare costs are threatening the survival of these systems. These rights are related to the right to an adequate standard of living, which is often affected in the case of the elderly, due to lack of an adequate support system for them.

Elderly individuals also have the right to non-discrimination. Elderly people should not be thought of as useless to society simply because some of them may need more care than the average person. These stereotypes of the elderly can lead to degrading treatment, inequality and, sometimes, abuse.
Similarly, elderly persons' right to participation is sometimes threatened due to prevailing negative images societies hold of the aged. The aged are often not given the same opportunities as others to be productive members of society. Governments are obliged to aid in creating a more positive image of the abilities and strengths of older populations as well as solid opportunities for elderly people to participate in the ongoing creation of their societies.

The elderly's right to be free from torture or cruel, inhuman or degrading treatment is also often threatened. People sometimes take advantage of the vulnerability of elderly persons. People in old age, particularly older women, are often victims of neglect and physical and psychological abuse. Additionally, elderly refugees during humanitarian crises often fall victim to the torture and abuse that is sometimes inflicted upon civilian populations.

As compared to male aged, elderly women are at the greatest risk for having their rights violated. In general, women are historically more vulnerable toward violence due to their traditionally subordinate position in most cultures. Coupled with the negative image many cultures hold of elderly people, being a woman can make one particularly susceptible to violence and abuse. Considering that 55 percent of older persons are women and that, in the oldest old category 65 percent are women, special consideration must be given to the effect of sex on the likelihood of rights violation and abuse.

From all above discussion working of these instruments and documents when analyze there appears certain hurdles in the implementation of the same. The main hurdle as per researcher is
the different regional arrangements and status, lack of proper infrastructural facilities and co-ordination among the world Community. Secondly, it is important to ratify these conventions by the member States, which is optional and hence not adopted by many States. Third obstacle is the political wish and willingness on the part of government in that State. These obligations and treaties can be implemented only when they converted into municipal law or placed in the local legislation, which is mostly depend upon the party politics. Lastly, there require co-ordination between the states which is not feasible for want of disparities in the cultural financial resources.

The intentional instrument provides the framework for national legislation, however, it is ultimately the State who has to implement through domestic legislation. It is not also adequate to make legislation, but to create an infrastructure to implement the Statute. It is beyond doubt that there shall be uniformity in domestic legislation, so far in recognizing some of the fundamental and basic rights of the aged people like right to adequate standard of life, security, right to non-discrimination, right to healthcare, prevention of elder abuse and social security etc. throughout the world by the international community. This shall be made mandatory on all the States irrespective their local conditions and shall not have option regarding its adoption in respective States. Some suitable mechanism shall be evolved to intervene if there is gross violation of these rights by the state and to prosecute earring State.