National policy on older persons

C.P. SUJAYA

SINCE the time when development planning was initiated in independent India, the state has recognised older persons as a priority target group for social welfare interventions. The Directive Principles of State Policy in our Constitution enjoin the state to provide public assistance to older persons within the limits of its economic capacity. The early social welfare interventions for this group included old age pension and shelter. These were introduced by state governments in the '50s and the '60s and now most states have some form of old age pension scheme. Additional welfare schemes were launched in the succeeding decades.

The social welfare approach was conditioned by humane principles. Older persons were perceived as the natural recipients of welfare handouts, doles and institutionalised services. The state did not view them as a resource or as active participants in planning their own development and welfare. On the other hand, the state governments found that there were severe financial constraints in expanding these social welfare schemes to cover larger numbers of older persons.

The coverage of the population as well as the quantum of individual pension granted under the scheme remained minuscule. It became an ameliorative measure, aimed more at preventing destitution and penury rather than covering risks attendant with old age. This absence of an effective and comprehensive framework of social security assistance for the overwhelming majority of the older citizens continues to date.

The National Policy on Older Persons was announced by the government in 1999, declared as the International Year of Older Persons by the UN. The year 2000 has been declared as the National Year of Older Persons by the Government of India. The decision to frame a policy for older persons was first mooted in the '80s, following the World Assembly on Ageing held at Vienna in 1982. In 1987-88 an Inter Ministerial Committee was constituted by the GOI for this purpose. The process of formulating the policy gathered momentum in the two years preceding 1999. According to ministry officials, the process envisaged active involvement of voluntary organisations, research bodies, schools of social work,
and so on. A number of regional consultations were held along with a national level consultation to discuss the draft policy document prepared by the ministry for getting feedback from a broad range of positions and approaches.

The national policy reflects a few basic and interlinking concerns. These include the impact of demographic changes overtaking the country’s population in the wake of an increase in health coverage and the adoption of the small family norm resulting in an increase in the responsibility of the working population for elderly care; the magnitude of the task of reaching even minimal social assistance to the large numbers of the elderly; the effect of the changes in the economy due to urbanisation and industrialisation; and the introduction of new technology and new life styles and values on the structure and functioning of families and their capacity to care for the elderly.

The policy highlights the plight of the vulnerable within the older person’s category such as widows, women in general, the poor, rural residents, the disabled and chronically (including mentally) ill and others.

The national policy is open ended. It promises an array of state interventions – support for financial security, health care, shelter and welfare, special focus on older women, protection against abuse and exploitation and special attention to rural areas. It also recognises that the state by itself cannot achieve these objectives, except partially.

Indeed, it is difficult to take these grand promises seriously, or envisage from where the funds for some of the new state interventions promised in the policy, even under such important heads as health, shelter and welfare, will be found given the precarious financial position of the government in the era of reforms, especially in the underfunded social sector.

For example, the policy commits to increase the coverage under the old pension scheme from the January 1997 level of 2.76 million to include all older persons under the poverty line. But it does not specify the number of older persons below the poverty line who are to be covered if this commitment is to be fulfilled. Nor does it speak of any probable deadline or phased deadlines by which the government plans to complete this coverage – or the magnitude of funds required to complete this gigantic task. The present pension rates paid to older persons throughout the country (Rs 30 to 250 per month) affords no income or livelihood security. It is only a token payment to ward off extreme destitution. Though the policy speaks of revising the rate at intervals so that ‘inflation does not deflate its real purchasing power’, no details have been given to show whether the base rate existing at present will be protected through indexing
or whether a total review will be done on the basis of the need for economic sustenance.

Since the below poverty line population of older persons will continue to rise (due to falling death rates and no discernible decrease in poverty ratios), the commitment of ensuring full coverage will be a never-ending task. Even at present the population above 60 years in the country is estimated at a huge 67.2 million (1995), only a fraction of which is covered by the old age pension and other schemes meant to address destitution (such as pension for agricultural labourers, unemployment relief, and so on, some of which may be accessed by older persons). While there are no available figures showing the number of older persons who are below the poverty line, the incidence of poverty can be assumed to be higher in the older age groups than in the general population.

The policy statement itself has relied on the figure of 33% of the general population and concluded that one third of the population in the 60+ age group is below the poverty line. This may be an understatement. Still, accepting this figure, the number of poor older persons comes to about 23 million. Surveys from different sources show high numbers of chronically ill and disabled persons among the elderly. They also show that the elderly continue to work long after 60 years and that their average earnings are much lower than in other age groups. The burden of providing universal coverage of old age pension to the elderly poor, even within a phased period, therefore, seems beyond the capacity of the government given its financial position and a realistic perspective.

The same is true of other sectoral interventions mentioned in the document, such as strengthening the primary health care system and public health services, providing geriatric care facilities at secondary and tertiary levels, starting new specialised courses in geriatric medicine, starting mobile health services for the ailing old persons, meeting the education, training and information needs of the older persons, and so on.

The policy document, in so far as these commitments relating to state interventions are concerned, can at best be seen as a statement of intent. The addition of a financial memorandum or the formulation of a plan of action to implement the policy would have significantly improved its credibility and helped nail the policy down to the immediate tasks and sort out the medium and long term action perspectives. Though policies are not expected to spell out everything in minute detail, it is incumbent on the government to plan the implementation strategies, sequence the actions and, above all, garner its resources and match the plans and commitments with the needed funds.

But there is no mention in the document about the financial
implications of carrying out the commitments made in the policy or from where these resources are going to be arranged in all the sectors. All that the policy contains is a statement that an action plan will be prepared by the government, that the policy itself will be widely disseminated and ‘its features remain in constant focus’. But in the one year that has elapsed since the policy was announced, no plan of action has been formulated. The ministry, perhaps, is engaged in such an exercise at present.

Questions of financial capacity, capability and viability arise, therefore, from a plain reading of the many commitments of state action made in the policy by the government. How much can the government afford to spend on new schemes for older persons or to upgrade, improve, train, reorient, modify existing programmes to reach the older persons? How much clout does the Ministry of Social Justice and Empowerment have with other important ministries to ensure that the issues relating to older persons are given more importance in all their programmes?

The policy refers to the legal rights of parents without any means to be supported by their children having sufficient means. These rights are enshrined in the Cr. PC as well as in the Hindu Adoption and Maintenance Act 1956. The policy refers approvingly to the action taken by two state governments in introducing relevant legislation at the state level and speaks of encouraging other states to pass similar legislation so that old parents unable to maintain themselves do not face ‘abandonment and acute neglect.’ The provisions of Cr. PC and HAMA are seldom used by parents to go to court against the children. Most litigants under Section 125 of Cr. PC are spouses, that is, wives. The provision for maintenance of parents by children, wives by husbands, etc. under these statutes, however, is not to provide minimum income or old age security but to prevent destitution and vagrancy. It cannot, therefore, substitute for state action in providing risk cover to older persons.

Though the Himachal Pradesh Maintenance of Parents and Dependents Bill was passed by the state assembly in 1996, it still awaits Presidential assent. The bill empowers any person unable to maintain himself, who is resident in the state, to apply to the tribunal for an order directing the children, grandchildren, husband, father or mother as the case may be, to pay him a monthly allowance or any other periodic payment of a lump sum for his maintenance. The bill is aimed at providing relief not only to indigent parents (above 60 years) but to wives, children and dependants who are in a similar situation. The inability to maintain oneself is defined as not being able to meet the expenditure on basic amenities to meet physical needs including, but not limited to, shelter, food and clothing from his total or expected income and other financial resources.

Two mechanisms have been created in the bill, namely those of
‘maintenance officer’ and ‘approved person or organisation’. The
former is invested with the duty to help applicants in any legal
proceedings under the act as well as to appear before the court on
their behalf. He can consult the parties concerned and bring about
reconciliation; he can authorise underage applicants to ask for relief
if he is satisfied that infirmity of mind or body makes it difficult for
the persons to maintain themselves.

The ‘approved persons or organisations’ are those bodies engaged
in social welfare or family welfare or others as approved by the state
government ‘whose association with a tribunal would enable it to
exercise its jurisdiction more effectively in accordance with the
purpose of this Act.’ These organisations are authorised to defray
the expenses on maintenance of the persons who have been granted
relief by the tribunal and claim reimbursement from the state.

The bill provides that lawyers shall not appear before the tribunal or
represent any party. The maximum period of time to decide the
application by the tribunal is six month from the date of application.
The bill authorises the attachment of salary payable to any person
against whom a maintenance order has been passed and who is
employed by the state or central government or by a local authority
or from a corporation engaged in any trade or industry which is
established by the state or central government, or by a government
company.

There is a real reluctance on the part of parents to go to court
against children. Though the Himachal Pradesh bill has some
attractive features, including involvement of social organisations in
the legal process, simplification of legal procedures, flexibility
regarding age limits, ease of attachment of salaries, conciliation
process, among others, it remains to be seen how often the statute
will be made use of by older persons as compared to the other
groups eligible to ask for relief, such as children and spouses.

The concerns of older persons are cross-cutting, relating to many
different departments and ministries within the government. So far
the needs and requirements of older persons were subsumed under
the rubric of ‘welfare’ or ‘social welfare’. Only the very poor or the
destitute were directly targeted. Now the policy statement makes a
break with the past by spelling out ‘the principles the directions, the
needs that will be addressed and the relative roles of government
and non-government institutions’ to carve out ‘respective areas of
operation and action in the direction of a humane age-integrated
society.’ The policy further states that the thrust is ‘on active and
productive involvement of older persons and not just their care.’

This holistic approach toward older persons is sustained in the
policy by identifying priorities such as social assistance and
security, health, shelter, education, freedom from abuse and
exploitation, research, training and manpower, besides several others. The challenge of implementing such a multi-level and multi-dimensional mandate is enormous. It calls for coordination, leadership, effective strategizing, networking, lobbying and advocacy. Above all, it calls for effective monitoring, feedback and continuous system improvement. The institutional mechanisms that are in place or are being set up to oversee the policy implementation are therefore of crucial significance.

In May 1999, the ministry notified a 39-member National Council for Older Persons under the Minister for SJE to advise, provide feedback, act as a lobby and advocacy forum, and deal with complaints from individuals. This body has representation from a few central ministries such as pensions, defence, railways, communications as well as from three state governments by rotation. A representative each from the National Commission for Women and the National Human Rights Commission finds place on the NCOP. But ministries dealing with a number of important aspects of the subject of ageing and older persons, such as the following, have not been represented on the Council.

* health care and nutrition: ‘health care needs of older persons will be given high priority’ (para 34 of the policy), ‘the primary health care system will be strengthened and oriented to meet the health care needs of older persons’ (para 35 of the policy);

* shelter: ‘housing schemes for urban and rural lower income segments will earmark 10% of the houses/house sites for allotment to older persons; older persons will be given easy access to loans for purchase of housing and for major repairs with easy repayment schedules’ (para 48 of the policy), ‘a multi-purpose centre for older persons is a necessity for social interaction and it will be necessary to earmark sites for such centres in all housing colonies; preferences will be given to older persons in the allotment of flats on the ground floor’ (para 49 of the policy);

* education: ‘discrimination against older persons for availing opportunities for education, training and orientation will be removed assistance for open universities will be sought to develop packages using distance learning techniques; educational curriculum at all stages of formal education as also non formal education programmes will incorporate material to strengthen intergenerational bonds and mutually supporting relationships’ (para 56);

* law: ‘the introduction of special provisions in IPC to protect older persons from domestic violence will be considered and machinery provided to attend to all such cases promptly; Tenancy legislation will be reviewed so that the rights of occupancy of older persons are restored speedily’ (para 65 of the policy);
* media: ‘the policy aims to involve mass media on ageing issues to provide opportunities to media personnel to have access to information apart from their own independent sources their participation in orientation programmes on ageing will be facilitated’ (para 89 of the policy);

* rural areas, where the bulk of the older persons live, (in absolute terms as well as in terms of proportion of the population) and who are poorer, less literate and expect to live less than their urban counterparts; and

* labour, which deals with the problems of the unorganised workers in the country as well as with pension and social security.

The bulk of NCOP’s members are experienced and well-known individuals from a wide range of backgrounds, including NGOs, citizen’s groups, retired person’s associations, law, social welfare and security, research, and medicine. The NCOP is said to have not met so far. A smaller working group consisting of seven members of the NCOP has been set up to transact business on its behalf, which meets more frequently and consists of representatives of voluntary organisations, experts and other luminaries. It is chaired by the secretary of the ministry.

The secretariat of the National Council, Aadhar, is located in Agewell, a voluntary organisation working with elderly citizens. Besides providing assistance to the council, it is mandated to look into individual grievances of older persons, set up a voluntary network at district level throughout the country, compile data and information relating to ageing and older persons, and carry on advocacy and awareness programmes.

Launched in November 1999, Aadhar had, up to the middle of February 2000, initiated a process of setting up voluntary action groups at the district level throughout the country in consultation with the deputy commissioners/collectors and volags. It has been able to identify nearly 2300 individuals in over 120 districts to work on a voluntary basis for the cause of older persons.

Aadhar is also formulating a strategy for handling individual letters of grievance or complaints from older persons. These are received by the ministry from a variety of sources and normally dealt with cursorily in the usual bureaucratic style. It has received over 700 such letters, most of them from the Ministry of SJE, and is currently reviewing them to find solutions and identify interactions with the concerned authorities.

While the idea of locating the secretariat of the national council in a voluntary organisation is innovative, it remains to be seen how effective Aadhar will be in shaping the agenda and deliberations of
the council, and to what extent the council itself, given its unwieldy size, can foster coordination among the sectors of health, housing and shelter, law, nutrition, education, rural development, and labour, in advocating the cause of older persons and confronting prevailing negative attitudes towards them.

Ageism and discrimination against the more vulnerable groups among the older persons has to be specially countered. The policy speaks of action plans to be prepared by each ministry of the government to implement those components of the policy which concern it. It speaks of ensuring flow of benefits to the older persons from general programmes, as well as from special programmes and schemes exclusively aimed at the older persons. It enjoins each ministry to decide on targets, time schedules, responsibilities, action points and report on progress in the annual reports.

All this calls for a high order of horizontal coordination between different government agencies. The appropriate instrument to facilitate this is an inter-ministerial committee which, though envisaged as a part of the institutional set up, has yet to be set up. Such a committee should be given the task of monitoring policy implementation in as much as it relates to the ministries and the state governments. It should also look for appropriate strategies for networking within and outside the government agencies.

We now look at some crucial issues related to the policy on older persons:

1. Social assistance for the older persons. The policy adopts a segmented approach to the provision of income security for older persons (‘policy instruments to cover different income segments will be developed’). The policy categorises two-thirds of the population above 60 years as economically ‘fragile’ out of which one half is below the poverty line and the other half is above it, but belongs to the lower income group.

While the expressed need to increase the coverage of old age pensions to all those below the poverty line receives top priority in the document, the policy calls for a new pension scheme to be established for self-employed and salaried persons with provision for employers to contribute. This will be overseen by a strong regulatory authority which will make investment norms and safeguard pension funds. It is not clear for which economic category or socio-economic class or classes this new pension scheme is intended.

In pursuance of the policy commitment, the ministry appointed an expert committee ‘to comprehensively examine policy questions connected with old age income security.’ One report dealing with
improving the existing pension provisions was submitted to the government in 1999. The second report, dealing with ‘a new pension provision for excluded workers who are capable of saving even modest amounts and converting this saving into an old age income security provision’ was submitted to the government in mid-January this year.

Looking at the problem of social security from the vantage point of the neediest, there is no doubt that the most vulnerable categories of older persons are those who have worked or may still be working as landless agricultural workers, small and marginal farmers, artisans in the informal sector, unskilled labourers on daily, casual or contract basis, migrant labour, informal self-employed or wage workers in the urban sector, and domestic workers. These categories of persons have little or no job security nor any form of social security.

While a few state governments have provided some succour to these groups through special pension schemes and unemployment relief, their coverage is extremely thin. The condition of these citizens is most precarious as their engagement with the labour force is intermittent and they are subject to long spells of no work. They also have to continue working long past the age of 60 or 65 years, if health permits, for sheer survival. The concept of the age of retirement does not exist for them, nor does saving in youth for old age have much meaning.

Levels of indebtedness among these groups speaks volumes about their lack of capacity to save. The loans are taken for a mix of consumption and other ‘productive’ needs. This strata is increasing since the opening up of the economy to market forces, the loosening of controls and the increasing stress on industry to become globally competitive has increased casualisation of labour.

It is doubtful if the new pension scheme recommended by the Project OASIS expert committee would address the particular situation and context of the older persons who belong to this most vulnerable group of citizens in the country, even assuming that the below poverty households are not included in the scheme in view of the government’s policy commitment to cover them under the old age pension scheme.

It is not possible to present an in-depth critique of this proposal in the paper. It is learnt that the OASIS report is being examined by the ministry. However, some of its premises are self-explanatory. One is that ‘higher government spending on old age security has often been at the cost of expenditure on other important public goods and services and has increasingly been a serious drain on government finances.’ The other is that ‘the sheer number of the elderly is too large and the resources with the state are too small to make anti-poverty programmes the central plank in thinking about
the elderly that government dole is not sustainable on a significant scale.’ Another observation made in the report is that ‘India faces severe problems of poverty among the elderly.’

Poverty among the older persons is a direct consequence of the lack of income and livelihood security during the productive years of the vast majority of the rural and urban workers who are outside the formal or organised employment ‘sheds’, which itself is the result of the failure of development planning. Second, anti-poverty programmes are primarily aimed at providing a wage or self employment, and not doles. Third, attempts at combining thrift and credit activities with anti-poverty programmes have been quite successful in recent years. To focus on poverty among older persons without its political economy will not lead us to any sustainable solution for containing the problem of old age destitution.

The pension scheme is meant for persons who at a minimum save Rs 5 per day. Research by Project OASIS has found that only if this saving is sustained throughout the working life (of 35 years presumably), will it result in escaping the poverty line in old age, provided the pension assets are invested wisely. The project assumes an extremely large number of people who can save between Rs 3 to Rs 5 per day and thus prepare themselves for old age income security. However, the report presents no data on household expenditures or levels of indebtedness to sustain this assumption.

In discussing financial security of older persons, the policy statement shows a greater involvement with issues relating to pension and social security of workers in the urban and formal sectors of employment. The need to improve the procedures of settlement of pension cases, improvement of investments and accumulations in the provident funds, more efficient disposal of gratuity and other retirement benefits, have received greater attention in the document.

The policy refers to the need for a strong regulatory authority to oversee pension schemes and pension fund management. There are references to taxation policies and the need to reflect sensitively to the financial problems of older persons in the matter of standard deduction, annual rebate for medical treatment, etc., all aimed at the income tax paying minority in the country.

Similarly, references to post retirement employment, income generating activities after retirement, career guidance and counselling and training are obviously targeted at the better-off sections in the country. Summing up, the policy statement on social assistance and security for older persons has not given any meaningful recommendation for improving the later years of the largest group of income and asset poor rural and urban poor.
2. Issues relating to older women – legal rights. While there are a few references in the policy statement to the gender based status of marginalisation and vulnerability of older women, there is no concrete recommendation which addresses their particular circumstances on account of gender and age. Though reference is made in the policy statement to a higher incidence of widowhood, there is no mention of a need to review the unsatisfactory status of women’s property rights.

Widowhood is intolerable because women lack both social and economic support. Ageism and patriarchy combine to make older women the most vulnerable among older persons. Abuse of older persons has been mentioned in the policy but no special reference to violence against older women finds place. The introduction of special provisions in the Indian Penal Code to protect older persons from domestic violence is, however, a welcome feature, as is the commitment to create a machinery to promptly attend to all such cases.

The situation of older women needs special focus in any discussion on older persons. The high proportion of widows in the 60+ group, the more favourable female:Male sex ratio in the 60+ age group, the glaring differentials in literacy and wages or earnings between older men and older women, the higher morbidity of older women as compared to older men, the differential access of older persons to health care based on gender – all serve to highlight the many points of interventions which should to be taken up at policy level.

Old age, as the policy document reminds us, is not a separate part of life. The policy views the life cycle as a continuum, of which post-60 life is an integral part. It does not view age 60 as the cut-off point for beginning a life of dependency. Women face discrimination on account of their gender throughout life. Patriarchy as a system of male domination appropriates women’s sexuality, labour and fertility and keeps them subordinate.

This subordination takes the shape of discrimination, disregard, insult, control, exploitation, oppression and violence – within the family as well as in the workplace and in the larger society. Added to this, in the later years, is ‘ageism’ defined as ‘a process of systematic stereotyping and discrimination against old people because they are old and allows younger generation to see them as different from themselves at times ageism becomes an expedient method by which society promotes viewpoints about the aged in order to relieve itself from responsibility toward them.’

Though the codification of Hindu laws in the 1950s has been hailed as a great breakthrough for women of the majority community in India, ground experience tells us that women’s access to residence, property and maintenance remains fragile and more
connected to marital status. The unfettered right to will away self-acquired property which was introduced in the Hindu Succession Act 1956 with much fanfare has diluted the inheritance rights of women. The continuing presence of the concept of coparcenary too has affected her rights to access inherited property. She has a right to inherit, but her right to ask for partition of property is subject to male approval and is not unfettered.

Judicial attitudes and pronouncements have led to women being considered incapable of managing property. The right of a woman to reside in her natal dwelling house is also made subject by the courts, to her being unmarried, while daughters who are divorced, deserted or widowed are often illegally excluded under patriarchal norms. Thus the situation of older women, intrinsically bound with their legal entitlements as well as their marital status, cannot be improved unless women’s overall legal rights are assured. The policy statement does not refer to this aspect at all.

Without attacking the root cause of exploitation, which is women’s unequal status in law, only cosmetic changes such as an increase in widow pension or adding to the support services available, are possible. The women’s movement in India has not paid sufficient attention to the predicament of older women in the country. The many movements and campaigns for legal reform by women’s groups should identify the peculiar circumstances in which older women have been placed on account of their lack of legal entitlements.

References


The Himachal Pradesh Maintenance of Parents and Dependents Bill 1996.

