POVERTY AND OLD AGE: WHY SHOULD WE CARE?

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The story of two legal cases

- The Manor story
  - The Facts
  - The legal arguments
  - The Court’s ruling

- My question: could have this case been viewed differently?
The Starting Point

- A significant portion of older persons are poor;
- This overall picture masks significant difference in sub-groups of older persons (minorities; women; older migrants; developing countries; etc.)
- Looking into the future, along positive trends, there are also significant negative trends

- Currently, over half of older people worldwide - 342 million - lack income security and, unless action is taken to improve the situation, it is estimated that, by 2050, more than 1.2 billion older people will be without access to secure incomes (UNDESA, 2007).
Families with older persons are poorer

Source: OECD income-distribution database

Figure 2: Poverty rates for general population and households with older people in selected African countries
Elder Poverty Without Public Pensions

Figure 3: Old-age poverty rates and population poverty rates, controlling for the effect of pensions, Latin America and the Caribbean

Source: Social Watch (2007)
Why are they poor?

- The two classical explanations:
  - The individual explanation
    - In general
    - Elderly specific
  - The societal-structural explanation
    - In general
    - Elderly specific
So: why should we care: The Universal Argument

- Poverty and personal dignity
- Poverty, personal autonomy and human development
- Poverty and democracy, citizenship, and exclusion;
- Poverty and equality / fairness
- Poverty and Judaism
So: why should we care: The elderly specific argument

- It is a result of social structure and culture
- It is the result of natural biological processes
- It is the outcome a human inability to plan to old age on an individual level
- It is a fundamental filial duty
- It is a fundamental inter-generational duty
- It is a religious duty
- The unique impact of poverty in old age
So: what can we do?

- The “traditional” tiers system:
  - Universal-based social security/old age pension
  - Needs-based social security / old age pension
  - Occupational-based old age pension
  - Private-based old age pension / insurance
  - Later life employment
  - Other private property tools
Poverty in old age is a matter of societal decision

- We know what can be done;
- It is up to us to do it!
Example: the impact of public pensions

Figure 4: Old-age poverty rates and putative poverty rates in the absence of public pensions, OECD countries

Source: OECD income-distribution database
So: where is the problem?

1. The absence of “elderly specific” poverty argumentation: The understanding that in many cases, poverty in old age is not a matter of ‘choice’ but a matter of societal structures and institutions.

For example:
- Ageism and age discrimination
- Intergenerational conflicts and older persons and the next “scapegoat”
So: what is missing

- Many things are missing.
- However, on the socio-legal field, I would argue that HR is missing:
  - The significance and power of HR/CR discourse
  - The absence of HR discourse in existing UN conventions
  - The absence of CR discourse in many national jurisprudence
  - The difference between “soft law” and “hard law” on the international level.
A word about “Jurisprudential Gerontology”

- The “absence” of law in gerontology
- The significance of law to gerontology
- The importance of “international elder law:
  - Public Int. Law
  - Private Int. Law
  - Comparative Int. Law
Conclusion

- Overall, my argument is simple;
- On the socio-legal field, there is a need to adopt a HR approach to older persons rights — in general; and in combating poverty in old age — in specific;
- The time to do it is now!
The ultimate question:

“My question is: Are we making an impact?”