



## **HelpAge International Submission on the Normative Content of Education, Training, Life-long Learning and Capacity-building**

11<sup>th</sup> Working Session of the Open-ended Working Group on Ageing, 2020

### **Question 1: Definition**

Older persons have the right to lifelong learning, education and skills-building on an equal basis with others and without discrimination, so they can acquire, utilise and transmit their knowledge and skills, live autonomous and independent lives, fulfil their aspirations,, develop their full human potential and sense of dignity and self-worth, and participate fully in society.<sup>1</sup>

### **Question 2: Scope of the right**

#### **Non-discrimination**

Older persons have the right to acquire, utilise and transmit their knowledge and skills without discrimination and on an equal basis with others.<sup>2</sup>

#### **Availability**

Older persons have the right to all forms of lifelong learning, education and skills-building, including but not limited to tertiary education, vocational training and retraining, digital and new technology-based education, adult education, self, informal, recreational and community-based education, lifelong learning programs, legal literacy, and skills training in literacy, numeracy and technological competencies.<sup>3</sup>

Older persons have the right to all forms of lifelong learning, education and skills-building in the settings in which they live, including in the home, community and residential settings, in rural and urban areas<sup>4</sup>, and in situations of forced displacement and migration.

#### **Acceptability and adaptability**

Older persons have the right to equal access to opportunities of lifelong learning, education and skills-building available to the general public and to learning opportunities adapted to their specific needs, including duration of study and communication needs, skills, motivations, preferences, cultural and diverse identities.<sup>5</sup>

#### **Accessibility**

Older persons have the right to lifelong learning, education and skills-building opportunities that are affordable and financially accessible to them.<sup>6</sup>

---

<sup>1</sup> See UDHR Art. 26; ICESCR Art. 13; CRPD Art. 24

<sup>2</sup> See CEDAW Art. 10; CRPD Art. 24; CESCR General Comment No. 13, 1999, paragraph 6 b) i)

<sup>3</sup> See CESCR General Comment No. 6, 1996, paragraph 37

<sup>4</sup> See ICHROP Art. 20 c)

<sup>5</sup> See ICHROP Art. 20; CESCR General Comment No. 13, 1999, paragraphs 6.c and d

<sup>6</sup> See CESCR General Comment No. 13, 1999, paragraph 6.b.iii

Older persons have the right to lifelong learning, education and skills-building opportunities in settings that are physically accessible to them, including in their communities and in care and support settings.<sup>7</sup>

Older persons have the right to reasonable accommodation of their individual requirements so they can access lifelong learning, education and skills-building opportunities.

Older persons have the right to information about lifelong learning, education and skills-building opportunities and how to access them.<sup>8</sup>

### **Quality**

Older persons have the right to quality lifelong learning, education and skills-building opportunities delivered by skilled teachers and trainers.

### **Participation**

Older persons have the right to lifelong learning, education and skills-building opportunities to enable them to fully participate in the community and in social, cultural, economic, public and political life.

Older persons have the right to participate in the design and development of the shape and content of lifelong learning, educational and skills-building programs aimed at older adults.<sup>9</sup> Older persons have the right to participate as teachers and sources of knowledge in lifelong learning, educational and skills-building programs for all generations.<sup>10</sup>

### **Remedies and redress**

Older persons have the right to accountability mechanisms that provide for remedies and redress when their rights are violated.<sup>11</sup>

## **Question 3: State Obligations**

States Parties shall take effective and appropriate measures to ensure:

### **Non-discrimination**

Older persons have equal access to opportunities for all forms lifelong learning, skills-building and levels of education without discrimination based on age or any other grounds.

Older persons have the same opportunities as others to benefit from scholarships and other educational or study grants.<sup>12</sup>

---

<sup>7</sup> See CESCR General Comment No. 13, 1999, paragraphs 6.b.ii and d

<sup>8</sup> See ICCPR Art. 19.2

<sup>9</sup> See ICHROP Art. 20.f

<sup>10</sup> See ICHROP Art. 20

<sup>11</sup> See ICCPR Art. 2.3

<sup>12</sup> See CEDAW Art. 10 d)

Systems, mechanisms and legal frameworks are in place so that all older persons are able to acquire, utilize and transmit their knowledge and skills.

Reasonable accommodation of an individual's requirements is provided.

The elimination of any stereotyped concept of the roles of older persons at all levels and in all forms of education<sup>13</sup>, negative ageist stereotypes and prejudices about older persons' ability and willingness to learn, and the promotion of the value and importance of learning, education and skills building in older age.

### **Availability**

All forms of lifelong learning, education and skills-building are available to older persons, including but not limited to tertiary education, vocational training and retraining, digital and new technology-based education, adult education, self, informal, physical, recreational and community-based education, lifelong learning programs, legal literacy, and skills training in literacy, numeracy and technological competencies.

The elimination of barriers and obstacles to the availability of educational goods and services in rural and urban areas.<sup>14</sup>

The design and implementation of policies to eradicate illiteracy and innumeracy among older persons, especially women and those in situations of risk or marginalisation.<sup>15</sup>

The promotion and delivery of education and training for older persons in the use of new technologies in order to bridge the digital, generational, and geographical divide and to increase social and community integration.<sup>16</sup>

Sufficient funds are allocated for lifelong learning, education and skills-building opportunities for older persons.

### **Acceptability and Adaptability**

The development of accessible and suitable educational programs, materials, and formats for older persons that fit their needs, preferences, skills, motivations, cultural and diverse identities.<sup>17</sup>

### **Accessibility**

Older persons have access to affordable lifelong learning, education and skills-building opportunities.

Older persons have access to lifelong learning, education and skills-building opportunities in the settings in which they choose to live, including in their communities and in care and support settings.

---

<sup>13</sup> See CEDAW Art. 10 c)

<sup>14</sup> See ICHROP Art. 20 c)

<sup>15</sup> See ICHROP Art. 20 e)

<sup>16</sup> See ICHROP Art. 20 d) and AU Protocol Art. 16

<sup>17</sup> See ICHROP Art. 20 b)

Older persons have access to information about lifelong learning, education and skills-building opportunities and how to access them.

### **Participation**

Older persons can participate in the design and development regarding the shape and content of learning, educational and skills-building programs aimed at older adults.<sup>18</sup>

### **Quality**

The training and employment of skilled teachers and trainers.

### **Remedies and redress**

Older persons have access to complaints and other accountability mechanisms that provide remedies and redress when their rights are violated.

Safeguards are put in place to protect against breaches of the right to lifelong learning, education and skills-building, including breaches of privacy and security of data on digital, online and new technology-based learning platforms.

### **Question 5: Non-state parties**

Under their duty to protect, States have an obligation to ensure that all non-state parties involved in the provision of lifelong learning, education and skills-building for older persons comply with the standards above.

---

<sup>18</sup> See ICHROP Art. 20 f)

## **Annex: Provisions in existing international human rights law and other sources**

---

### **International human rights law**

#### **Universal Declaration of Human Rights, 1948**

##### Article 26

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

#### **International Covenant on Economic, Social and Cultural Rights, 1966**

##### Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

- (a) Primary education shall be compulsory and available free to all;
- (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
- (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
- (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
- (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum

educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

### **International Covenant on Civil and Political Rights, 1996**

#### Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

#### Article 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

### **Convention on the Elimination of All Forms of Discrimination Against Women, 1979**

#### Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;
- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- (d) The same opportunities to benefit from scholarships and other study grants;
- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
- (g) The same opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

### **Convention on the Rights of Persons with Disabilities, 2006**

#### Article 24 - Education

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life long learning directed to:

- (a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
- (b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
- (c) Enabling persons with disabilities to participate effectively in a free society.

2. In realizing this right, States Parties shall ensure that:

- (a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
- (b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
- (c) Reasonable accommodation of the individual's requirements is provided;
- (d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
- (e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:

- (a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
- (b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
- (c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.

4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

### **Advisory documents**

#### **The Committee on Economic, Social and Cultural Rights General Comment No. 6 on the economic, social and cultural rights of older persons (1996)**

37. With regard to the former, States parties should take account of: (a) the recommendations in principle 16 of the United Nations Principles for Older Persons to the effect that older persons should have access to suitable education programmes and training and should, therefore, on the basis of their preparation, abilities and motivation, be given access to the various levels of education through the adoption of appropriate measures regarding literacy training, life-long education, access to university, etc.; and (b) recommendation 47 of the Vienna International Plan of Action on Ageing, which, in accordance with the concept of life-long education promulgated by the United Nations Educational, Scientific and Cultural Organization (UNESCO), recommends informal, community-based and recreation-oriented programmes for the elderly in order to develop their sense of self-reliance and the community's sense of responsibility. Such programmes should enjoy the support of national Governments and international organizations.

#### **The Committee on Economic, Social and Cultural Rights General Comment No. 6 on the right to education (1999)**

Article 13 (2): The right to receive an education - some general remarks



6. While the precise and appropriate application of the terms will depend upon the conditions prevailing in a particular State party, education in all its forms and at all levels shall exhibit the following interrelated and essential features:

(a) Availability. Functioning educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State party. What they require to function depends upon numerous factors, including the developmental context within which they operate; for example, all institutions and programmes are likely to require buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, and so on; while some will also require facilities such as a library, computer facilities and information technology;

(b) Accessibility. Educational institutions and programmes have to be accessible to everyone, without discrimination, within the jurisdiction of the State party. Accessibility has three overlapping dimensions:

i) Non-discrimination - education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds (see paras. 31-37 on non-discrimination);

ii) Physical accessibility - education has to be within safe physical reach, either by attendance at some reasonably convenient geographic location (e.g. a neighbourhood school) or via modern technology (e.g. access to a “distance learning” programme);

iii) Economic accessibility - education has to be affordable to all. This dimension of accessibility is subject to the differential wording of article 13 (2) in relation to primary, secondary and higher education: whereas primary education shall be available “free to all”, States parties are required to progressively introduce free secondary and higher education;

(c) Acceptability - the form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents; this is subject to the educational objectives required by article 13 (1) and such minimum educational standards as may be approved by the State (see art. 13 (3) and (4));

(d) Adaptability - education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.

## **Regional human rights law on the rights of older persons**

### **Inter-American Convention on Protecting the Human Rights of Older Persons, 2015**

#### **Article 20: Right to education**

Older persons have the right to education, on an equal basis with other sectors of the population and without discrimination, in the modalities determined by each State Party; to

participate in existing educational programs at all levels; and to share their knowledge and experience with all generations.

States Parties shall ensure effective exercise of the right to education for older persons and shall:

- a) Facilitate access for older persons to appropriate educational and training programs that provide access, inter alia, to the different levels of the education cycle, to literacy, post-literacy, technical and professional training, and to continuing education, especially for groups in situations of vulnerability.
- b) Promote the development of accessible and suitable educational programs, materials, and formats for older persons that fit their needs, preferences, skills, motivations, and cultural identities.
- c) Adopt the necessary measures to reduce and progressively eliminate barriers and obstacles to educational goods and services in rural areas.
- d) Promote education and training for older persons in the use of new information and communication technologies (ICTs) in order to bridge the digital, generational, and geographical divide and to increase social and community integration.
- e) Design and implement active policies to eradicate illiteracy among older persons, especially women and groups in situations of vulnerability.
- f) Foster and facilitate the active participation of older persons in both formal and non-formal educational activities.

**Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa, 2016**

Article 16: Access to Education

States Parties shall provide opportunities for Older Persons to have access to education and to acquire ICT skills.