



## Asamblea Permanente por los Derechos Humanos

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Estatus Consultivo Especial ante el ECOSOC de la ONU  
Organización acreditada en el registro de OSC de la OEA

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# REPORT OF HUMAN RIGHT OF OLDER PERSONS IN ARGENTINA

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The Senior Adults Commission of the Permanent Assembly for Human Rights of Argentina here presents the report requested by the Chair of the Open-ended Working Group for the purpose of strengthening the protection of the human rights of older persons. Non-governmental organizations with ECOSOC Status and previously accredited organizations to the Working Group have been invited to provide their report.

This report treats the subject through the areas of access to work and to justice for Seniors and through regulatory contributions to international legislation to ensure the protection of Seniors' human rights.

### **Access to work:**

In Latin America, the employment income of Senior adults plays a central role in limited-coverage pension systems. In Argentina in 2010 the system's planned coverage was almost total for its senior population. This situation was changed from 2015 on and was accentuated in 2017 with the sanction of the Planned Reform imposed by the Cambiemos government, the exceptional inflation, and low wages that especially castigated Older Adults. The legal framework does not generally facilitate access to the small formal labor market. Even in some cases such as in the area of teaching, it hinders the continuity or reintegration of work by retired workers.

59.8% of households with Senior Adults received employment income in 2017. Of these about 80% belonged to the middle class, whether professional or non-professional. The percentage dropped to 60% in formally-employed working class and dropped to 41% in the rest of the working class.

These statistics are consistent with those of the residential situation: the better residential situation the higher the percentage of employment income. Of the total households with older adults, 41% had insufficient incomes, with only 11.5 in the highest socio-economic levels to 68% at the lowest levels. It is important

to clarify that two-thirds of jobs held by Seniors are informal employment; so formal employment in that age range is minimal.

Another important aspect is that of gender: men have more than double the proportion of formal jobs as women, and women in turn have 1.7 times more unpaid work than men. Domestic employment also drops in the 60-64 age range. From a gender viewpoint in the assessment of previous work experience, 45.2% of older women think the valuation is low or null, compared to 35.55% of men who think the same.

The trend of these percentages is reversed when observing employment income from third-party assistance: 47.5% of marginal workers receive third-party aid, while only 3.5% of employees and middle-class professionals at the top of the scale receive aid.

Data are scarce on this sector's labor market. Most notable are the studies, research, and reports of the Catholic University of Argentina's Observatory of Social Debt and those of the Center for Political Studies for the Elderly (CEPPEMA) and the Latin American Association of Gerontology (ALGEC). However, most statistics on various topics such as housing, food, etc. do not differentiate Seniors' age range, which makes it difficult to access data and highlights the sector's INVISIBLEIZATION and Seniors' own lack of SELF-PERCEPTION when occupying positions in executive, legislative and other decision-making places.

There are no programs, regulations or other legislation that address and facilitate Older Adults' access to the labor market; hence there is also no protection for workplaces to develop under fair and favorable conditions.

There is no specific legislation or measures for this sector to ensure older people's access to the labor market, nor are there any job search-assistance mechanisms. There are also no national mechanisms that promote fair wages. In many instances, advanced age is the cause of wage decline. Age discrimination is present in almost all job searches. Therefore access to the labor market is affected by many difficulties of both normative and cultural origin, as well as originating in current circumstances. The latter have worsened in recent years.

There are also no mechanisms to receive complaints and demands about the inability to access work for this sector of the population.

The task of correcting these deficiencies is very great, but it can only be done when national policies are resolving inequalities, when direct participation in the formulation and implementation of public policies for themselves is given to the Senior sector, when a paradigm shift ends its invisibilization, when governments make the policy decision to comply with the treaties and conventions they've subscribed, and when international organizations work on

the effective control of compliance with human rights and treaties signed by participating states.

### **Access to justice:**

Access to justice is one of those issues that are often not even mentioned as a problem.

Older people have the same guarantees and rights of access to their jurisdiction as others.

The frame of reference is the National Constitution, the treaties incorporated into it in the reform of 1994, and the laws regulating the exercise of those rights and guarantees. There is no specific legislation for Senior citizens.

Access to judicial jurisdiction is not always easy. Considering the geographical area in which the petitioner is located, this can be more difficult when away from urban centers.

If there are alternative forms of dispute resolution, basically they are the so-called judicial or preliminary mediation in specific cases, and according to the subject under discussion, and the prior administrative route in cases where the claim is directed against the State or its agencies or individual instances, always clarifying that there are no special mechanisms for the Elderly sector.

In recent years, the administration of justice has been an area of difficult access for older adults, particularly concerning disputes in which the individual's medical coverage is at stake or when claims are related to benefits and/or adjustments to the pension or pension system. From the Central Administration itself, now in the hands of those who promote neoliberal policies and therefore a minimal state, serious obstacles to accessibility to jurisdictions have been implemented, which is particularly detrimental to this population sector.

In addition, there are no verifiable provisions today to guarantee legal assistance to these persons if they require it, obliging them to resort to private legal assistance if they should need sponsorship or legal representation. The system imposes obstacles on them; they have to contract private legal sponsorship and await time frames in the system that are inadequate in relation to their life expectancy.

There are no age-appropriate legal procedures, nor training of justice personnel to address these and other issues.

The principles of independence and impartiality of the justice system are lacking in our country, in this area as well as others, because the judiciary system tends to accompany the overall policies of the current government. If neoliberalism or pro-market practices prevail, it will be inclined to accompany

these policies unhesitatingly, even to the detriment of the population. In governments where the state assumes a role more interventionist, perhaps, judges tend to be more generous with this group's demands and usually accommodate the petitions with which they're presented.

While there is an overseeing mechanism that should address any discrimination against Seniors committed by the justice system or the administration itself, called the OMBUDSMAN for Senior Citizens, it is actually ineffective in defending the sector's rights and requirements.

It is worth adding that there are no specializations in the area of law in Argentina relating to the Senior sector. One measure that could facilitate access would be consultancies with specialized staff who meet the demands of this sector.

### **Development of international standards for the protection of older adults' human rights:**

In Latin America we have a normative instrument that covers in its entirety the defense of Senior adults' human rights, which is the INTER-AMERICAN CONVENTION FOR THE PROTECTION OF THE HUMAN RIGHTS OF OLDER ADULT PEOPLE, signed in Washington on June 15, 2015 and effective January 11, 2017. This convention was ratified by Argentina, Chile, Costa Rica, Uruguay, Bolivia, Brazil, Ecuador and El Salvador.

This legislation is super-constitutional in nature. Despite this, respect for Seniors' human rights, especially economic, social, and cultural ones, are systematically and increasingly violated by the current government.

We believe that the Inter-American Convention is a substantial contribution to the development of an international legislative framework to ensure the protection and compliance of human rights for older adults. The Convention contains all the answers to the questions that guided the preparation of this report.

The Inter-American Convention (to which most American countries have not yet subscribed) covers:

Equality and non-discrimination on grounds of age

The Right to life and dignity in old age

The Right to independence and autonomy

The Right to community participation and integration

The Right to safety and a life without any kind of violence

The Right to provide free and informed consent in the field of health

The Rights of an elderly person who receives the services of long-term care

The Right to personal freedom

The Right to freedom of expression and opinion and access to information

The Right to nationality and freedom of movement

The Right to privacy and intimacy

The Right to social security

The Right to work

The Right to health

The Right to education

The Right to culture

The Right to recreation, leisure, and sports

The Right to housing

The Right to a healthy environment

The Right to personal accessibility and mobility

Political rights: the Right of assembly and association

Rights in dangerous situations and humanitarian emergencies

Equal recognition as a person before the law

We believe that the Inter-American Convention for the Protection of the Human Rights of Older Adults contains sufficient elements to be taken as material to develop international legislation for the protection of these rights.

**Considerations:**

Argentina ratified in 2017 the signing of the Inter-American Convention for the Protection of the Human Rights of Older Adults, as we observe the near-zero compliance with it by the current National Government.

In addition, neoliberal governments in recent decades have used and continue to use the captive funds provided for social welfare for capital evasion/flight and to compensate for fiscal deficit, causing the system to be emptied.

Commission for Older Adults of the Permanent Assembly for Human Rights

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Sources:

Observatory on Social Debt of the Catholic University of Argentina

Center for Political Studies for the Elderly (CEPPEMA)

Latin American Association of Gerontology (ALGEC)

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