



**Contribution of the Procurador de los Derechos Humanos of Guatemala to the Working Group on Aging
Open-ended.**

Focus Area: “Education, Training, Life-long Learning and Capacity-building” and “Social Protection and Social Security (including social protection floors)”

Guatemala, October 2019

Guiding Questions for Defining the Normative Content of the Issues Examined at the Tenth Working Session of the Open-ended Working Group: Education, Training, Life-long Learning and Capacity-building.

Definition

1. What are the definitions of the rights of older persons to education, training, life-long learning and capacity-building, in the national legislation in your country?

Article 51 of the Political Constitution of the Republic of Guatemala establishes that the State must guarantee the right to education of the elderly, among other rights.

The Law of Social Development, Decree 42-2001 of the Congress of the Republic, within the sector policies, establishes the Social Development and Population Policy on education issues, in which it refers that all people have the right to education and to take advantage of the resources that the State makes available to it.

The Law for the Protection of the Elderly, Decree 80-96 of the Congress of the Republic, establishes that all older persons must have access to formal and informal education to continue with the development of the country without limiting their age.

Or how should such a right be defined, considering existing national, regional and international legal framework?

The right to education of the elderly refers to the access and availability of resources that allow them to initiate or continue studies based on their aptitudes through appropriate methods.

Scope of the right

2. What are the key normative elements of the rights of older persons to education, training, life-long learning and capacity-building, including such elements as availability, accessibility, acceptability and adaptability? Please provide references to existing standards where applicable.

In the Law of Protection for the Elderly, formal and informal education is mentioned (Article 20); It also refers to including geronto-geriatric issues at the university level in the curriculum of sociohumanist careers and initiating a masters degree on the subject in the Faculties of Medicine (Article 21).

The Law of Social Development (Article 27) establishes the provision of resources that the State must have in the matter of education for the population in general, therefore, also for the elder.

State obligations

3. What are the measures that should be undertaken by the State to respect, protect and fulfill the rights of older persons to education, training, life-long learning and capacity-building, regarding the normative elements as provided above?

The State must take the following measures to fulfill the right to education of the elderly:

- Promote education without discrimination based on age, especially led by the Ministry of Education as the governing body on the issue.
- Design specific learning programs for the care of older people in education.
- Promote spaces for the participation of the elderly to establish knowledge needs and create learning opportunities so that, simultaneously, they contribute to their training and autonomy.
- Promote intergenerational learning

Special considerations

4. What special measures and specific considerations should be considered in developing the normative content of the rights of older persons to education, training, life-long learning and capacity-building?

Since Guatemala is a multicultural and multilingual country, it is necessary that these perspectives be considered, so that the norm is inclusive with all population groups of 60 years and over, according to their own specificities.

5. How should the responsibilities of non-State parties such as private sector be defined in the context of the rights of older persons to education, training, life-long learning and capacity-building?

From the perspective of human rights and civil responsibility, it is considered prudent that the intervention of the private sector be framed within the participation that society should have for the enjoyment of human rights and, in particular, the generation of actions that allow people older access to education.

Implementations

6. What are the best practices and main challenges faced by your country in the adoption and implementation of the normative framework on education, training, life-long learning and capacity-building for older persons?

The main challenge is to comply with the regulatory framework for access to education, as well as to have resources and means to do so. While the right to education of the elderly is contained in national legislation, a small number accesses it.

Guiding Questions for Defining the Normative Content of the Issues Examined at the Tenth Working Session of the Open-ended Working Group: Social Protection and Social Security (including social protection floors)

Definition

1. What is the definition of the right to social security and social protection (including social protection floors) for older persons in the national legislation in your country? Or how should such a right be defined, considering existing national, regional and international legal framework?

The Political Constitution of the Republic (Chapter II) on Social Rights contains provisions regarding security and social assistance. National legislation refers to the right to social security; it also addresses social assistance or social security and not social protection, which is a broader issue. No definitions of such terms are stipulated.

The Political Constitution addresses it within social rights, such as social security and social assistance. It refers to social security as a guarantee for the benefit of the inhabitants of the Nation; institutes its regime as a public, unitary and mandatory function. As for the elderly, it states that the State must guarantee its right to social security and social security, among others.

Regarding social assistance, the Political Constitution establishes that the State will ensure social assistance for all inhabitants. Likewise, it will develop, through its institutions, prevention, promotion, recovery, rehabilitation, coordination and complementary actions, in order to provide them with the most complete physical, mental and social well-being.

On the other hand, the Law for the Protection of the Elderly, Decree 80-96 of the Congress of the Republic, contains a chapter on Social Security and Social Security. This law refers, among others, that the elderly have the right to have decent pensions; that the State must carry out actuarial studies of the retired population to adopt the necessary measures that adapt to reality and improve the quality of life of that population group; In case of helplessness or abandonment, it is up to the State to promote the care of the elderly, either directly or through institutions established or created for this purpose.

This law indicates that the Ministry of Labor and Social Welfare will promote programs for labor reintegration and business training for the elderly whose functional capacity and need merit it, giving preference to those who do not enjoy any benefits.

Scope of the right

2. What are the key normative elements of the right to social protection and social security for older persons? Please provide references to existing standards on such elements as below as well as any additional elements:

a) Availability of contributory and non-contributory schemes for older persons

Tax Regimes

Decree 295 of the Congress of the Republic created the Guatemalan Social Security Institute and the Social Security regime. It establishes that all the inhabitants that are

an active part of the process of producing articles or services are obliged to contribute to the maintenance of the Social Security regime in proportion to their income.

Decree 63-88 of the Congress of the Republic establishes the regime of passive classes of state workers. In accordance with the provisions, workers who provide or have provided services in Legislative, Executive and Judicial Bodies, as well as civilian workers of decentralized and autonomous entities that do not have their own pension scheme are covered by this scheme.

On the other hand, there are 16 alternative pension schemes that are managed by autonomous, semi-autonomous and professional associations.

Non-Contributory Regime

Through Decree 85-2005, the Senior Adult Economic Contribution Program was created, aimed at seniors who lack financial resources and who do not receive a pension from the Guatemalan Social Security Institute (IGSS, for the Spanish acronym) and the State. It is administered by the Ministry of Labor and Social Welfare and, although it is a minimum pension that does not cover even the basic needs of the elderly, it is a small income.

b) Adequacy of benefits to guarantee older person's access to an adequate standard of living and adequate access to health care

There is a lack of periodicity to adjust the contributory and non-contributory pensions to the current economic conditions of the country. The PDH has expressed its concern about the living conditions of the elderly in the country: poverty and extreme poverty, low pensions, low social coverage and the lack of a comprehensive public policy for their development in a multicultural and multi-ethnic context, with a gender approach.

Regarding medical care, the elderly pensioned by the IGSS and the State receive financial benefits and medical attention; on the contrary, the Senior Adult Economic Contribution Program does not provide medical care for the beneficiaries, since its legal framework does not stipulate it.

c) Accessibility, including older person's coverage by social security systems, eligibility criteria, and affordability of contributions

In accordance with the Law on Protection for the Elderly, the IGSS must extend the coverage of care to individuals who wish to contribute to the Disability, Old Age and Survival (IVS) regime. For 2017, the IGSS registered 85,730 old-age pensioners; according to population projections, it was estimated that for that year the Guatemalan population over 65 years of age amounted to 794,383 people; this represents less than 2% of the elderly population covered by Social Security.

On the other hand, due to the deficit of coverage of the Program of the Program of Economic Contribution of the Elderly, the Human Rights Ombudsman has repeatedly recommended the extension of the Program's budget, as well as the biannual review of the amounts allocated through actuarial studies.

d) Equitable access by older persons to the enjoyment of the right to social security and social protection, paying special attention to groups in vulnerable situation

The Senior Adult Economic Contribution Program was not projected based on demographic data and its coverage has been limited to one part of the population of elderly people living in poverty.

The social security pension system in Guatemala is insufficient; although the social security regime in Guatemala is aimed at the population inserted in the production of goods and services, only a part of the economically active population is covered by this regime.

In addition to this, the conditions in which people are working (contracts for services, not permanent, simulation of employment relationship, among others) make it easier for every day more people reach 60 years and more without having a pension.

e) Participation of older persons in the design and administration of the social security system

The design and administration of security and social security systems have been oblivious to the participation of the elderly and the contribution of their needs and opinions.

State obligations

3. What are the measures that should be undertaken by the State to respect, protect and fulfill the right of social security and social protection for older persons, regarding the normative elements as provided above?

Primarily it is considered important to adapt existing national norms so that all older people, regardless of their status, have accessibility and harmonize with international human rights instruments on social security and social protection, with cultural relevance and gender approach.

Special considerations

4. What special measures and specific considerations should be considered in developing the normative content of the right of older persons to social protection and social security?

The governing bodies on these issues should make proposals to improve the fulfillment of requests and respond immediately to the needs of the elderly, listening to their needs and proposals.

5. How should the responsibilities of non-State parties such as private sector be defined in the context of the right of older persons to social protection and social security?

It is important to raise awareness among the different unions within the private sector about the commitments they have regarding human rights and the effect that this has on the working population and the development of the country.

Implementation

6. What are the best practices and main challenges faced by your country in the adoption and implementation of the normative framework on social security protection for older persons?

It is considered good practice to have a pension scheme; which, in turn, has the great challenge of harmonizing its regulations with international human rights instruments, guaranteeing a gender and cultural relevance approach.