



SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Fourteenth session of the Open-ended Working Group on Ageing Guiding questions for the focus area on participation in public life and in decision-making processes

*Submitted to the United Nations Department of Social and Economic Affairs
April 2024*

1. INTRODUCTION

The South African Human Rights Commission (“Commission”) welcomes the opportunity to provide input to the United Nations Department of Social and Economic Affairs regarding various guiding questions for various focus areas and normative content related to those focus areas. The input is required from participants to the Fourteenth session of the Open-ended Working Group on Ageing conference which will be held in May 2024.

The Commission is an independent national human rights institution established in terms of section 181 of the Constitution of the Republic of South Africa, 1996 (“Constitution”) to support constitutional democracy. Under section 184(1) of the Constitution, the Commission is specifically mandated to:

- i. promote respect for human rights and a culture of human rights;
- ii. promote the protection, development; and attainment of human rights; and
- iii. monitor and assess the observance of human rights in the Republic.

In the following sections, each guiding question will be considered and discussed.

2. NATIONAL AND LOCAL LEGAL AND POLICY FRAMEWORK

What are the national and local legal provisions and policy frameworks in your country that guarantees the rights set out in the Guiding Questions document

The rights listed in the Guiding Questions document are all protected and guaranteed under the Constitution, which is the supreme law of South Africa. These rights ought to be protected at all times and no violations thereof may occur. South Africa has also ratified various domestic and international conventions which also apply to the rights listed in the Guiding Questions document.

The relevant legislation which applies is listed below:

- The Constitution;
- The Promotion of Equality and Prevention of Unfair Discrimination Act;¹
- The Regulation of Gathering Act;²
- The Protection of Personal Information Act;³ and
- Labour Relations Act.⁴

What steps have been taken to ensure participation in public life and in decision-making processes are without discrimination?

The South African government has put in place relevant legislation, regulations, and policies to ensure that participation in public life and decision-making processes are done without

¹ 4 of 2000.

² 205 of 1993.

³ 4 of 2013.

⁴ 66 of 1995.

discrimination. Legislation would not necessarily outline specific steps that have been put in place to prevent discrimination in these instances, but it would rather very clearly state what conduct is prohibited and what conduct would amount to unfair discrimination. Any conduct that qualifies as unfair discrimination then would be punishable under the relevant legislation.

What data and research are available regarding older persons' participation in public life and in decision-making processes? Please indicate how national or sub-national data is disaggregated by sex, age and inequality dimensions, and what indicators are used to monitor older persons' participation in public life and in decision-making processes.

National and provincial departments in the South African government would often publish research papers or research reports which would make use of quantitative or qualitative research methods to discuss the participation of citizens in public life and decision-making processes. Similarly, certain non-governmental organisations would also publish research reports of this nature. What data is used and how data is disaggregated by these departments or institutions cannot be commented on, as the Commission is not privy to such information.

What are the challenges and barriers that older persons face regarding participation in public life and in decision-making processes, including the impact of intersectional discrimination and inequality based on age, gender, disability, race, ethnicity, migratory status and other grounds?

A big challenge for older persons is accessibility. Often, older persons would live in retirement homes/ frail care facilities and would not necessarily have access to public life and decision-making processes. Transport and other means to attend public discussions or national events such as the national elections also pose a challenge to older people. There is furthermore a notion from society that older persons do not have a voice or a say in how the country is governed which leads to older persons being overlooked as society's perception of the role of older persons in a country is flawed.

What judicial and non-judicial mechanisms are in place for older persons to complain and seek redress when their right to participate in public life and in decision-making processes is violated?

Legislation provides for various ways of redress. A complainant can also approach a court of law and institute legal proceedings if the complaint is of a serious enough nature. Other means of redress could also include informal dispute resolutions mechanisms and lodging a complaint at a relevant commission or tribunal.
