

Guiding Questions for the focus areas of the IX Session of the
Open-ended Working Group on Ageing:

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Autonomy and Independence

- 1) In your country/region, how is the right to autonomy and independence of older persons defined in legal and policy frameworks?

The Constitution of India envisages protecting the rights of all citizens of India, including senior citizens. Under the Constitution's Directive Principles of State Policy, there is Article 41 which directs the state to make effective provisions for securing the right to work and public assistance in old age and Article 46 which directs the state to protect the economic interests of the weaker sections. The Directive Principles of State Policy are fundamental in the governance of the country, but they are not enforceable in the Court of Law. The legal right to claim maintenance is provided under the Code of Criminal Procedure, 1973; Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and in laws governing socio-religious traditions like the Hindu Adoption and Maintenance Act, 1956, Muslim personal law and Christian and Parsi laws. In India the nodal Union Ministry responsible for senior citizens is Ministry of Social Justice & Empowerment. The National Policy on Older Persons (NPOP), 1999, reaffirmed the constitutional commitment to ensure the well-being of elderly, accelerate welfare measures and empower the elderly in ways beneficial for them. In line with NPOP, elderly also get significant tax concessions under Income Tax Act 1961, and get travel concessions from the Railway ministry and Civil Aviation Ministry to facilitate their access to public spaces.

2) What other rights are essential enjoying right to autonomy and independence, or affected by the non-enjoyment of this right?

Older persons should have a right to access adequate food, water, shelter, clothing, and healthcare. Ensuring them stable income, family and community support, and enabling self-help mechanisms are critical for their well-being. Older persons should have the opportunity to work or access income-generating opportunities. A senior citizens' club in every neighbourhood that keeps them engaged in socio-cultural activities and physical exercise, is necessary. Elderly are virtually invisible in public spaces because of the lack of avenues for leisure, socialization, public participation, and roads, offices and transport systems that are hazard ridden and discourage those with disabilities.

3. Key challenges facing older persons in your country/region regarding autonomy and independence? What studies and data are available?

Elderly cannot make their own decisions about their finances, their work, their property, who to vote for, where and with whom to live, their access to health services, their family life, and their participation in community, voluntary or social activities. For many older people, the autonomy and independence they enjoyed earlier in their lives is denied in older age - often because others, mainly family members, think they can no longer make their own decisions, or disregard them when they do. The Ministry of Statistics and Programme Implementation prepared a report "Elderly in India - Profile and Programmes" in February 2016 with the objective of providing help to policy and programme making for elderly population. Other data driven reports include: "A Report on the Status of Elderly in Select States in India, 2011" published by The United Nations Population Fund along with Institute for Social and Economic Change, Bangalore and the Institute of Economic Growth, Delhi in collaboration with the Tata Institute

of Social Sciences; Agewell Foundation reports from 2015, “Human rights of elderly in India: A Critical Reflection on Social Development” and “Changing Needs & Rights of Older People in India -A Review” in July 2017. UNFPA brought out another report in 2017 “Elders: Early Responses India Ageing Report”.

4. Steps taken to ensure older persons’ enjoyment of their right to autonomy?

Awareness is the first step for concerted effort for advocacy. The Maintenance and Welfare of Parents and Senior Citizens Act laid stress on improving awareness among elderly about their rights and various services available to them. **The Senior Citizens’ Guide 2016** and other such publications of HelpAge India are among prominent NGO-driven efforts to create awareness among older persons. It is a valuable educational tool for senior citizens covering constitutional provisions, nodal ministry schemes, legal rights, privileges and benefits available to senior citizens on topics ranging from insurance schemes to reverse mortgages.

5. What mechanisms are necessary or in place for older persons to seek redress?

Violation of the rights of senior citizens can be challenged under provisions of two Acts in India: The Hindu Adoptions and Maintenance Act (1956) and The Maintenance and Welfare of Parents and Senior Citizens Act, 2007. In 1993, India also enacted a Protection of Human Rights Act, 1993, under which a National Human Rights Commission in the national level and State Human Rights Commissions were established for smoothen the protection of human rights in India. However, these are all proving inadequate. Very few Indian parents are seen to lodge complaints about ill-treatment by children; they quietly suffer within the four walls of their home. Hence in the relevant Act a clause to ensure secrecy of proceedings should be included. The onus should not be put on the parents to complain but on government and community to proactively reach out to elderly.

6) What are the responsibilities of other non-State, actors in protecting the right to autonomy of older persons?

Other than a moral obligation there are few responsibilities that have been assumed by non-state actors, nor have they been entrusted with such responsibilities. India ought to put in place a comprehensive policy and programme interventions for older persons which gives a greater role to civil society and local self governing institutions. Free healthcare, more old age homes, other kinds of affordable housing, and financial assistance in the form of pension and other payouts, especially to widows, have to be provided for and incentives must be offered to private sector to set up this social infrastructure for elderly.

