

FOCUS AREA OF THE IX SESSION OF THE OPEN-ENDED WORKING GROUP ON AGEING

SUBMISSION OF DIS-MOI (DROITS HUMAINS-OCEAN INDIEN), MAURITIUS

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?

Mauritius is a democratic state, constitutionally based on the rule of law and with regards to the human rights same is enshrined in Chapter II of the Constitution which protects the fundamental freedom of rights of the individual. Any law which is inconsistent with the Constitution is of no force, that is, is invalid.

Chapter II encompasses, inter alia, fundamental rights and freedoms of individuals, protection to life, protection of right to personal liberty, protection from inhuman treatment, protection from deprivation of property, protection from privacy of home and other property, provisions to secure protection of law, protection of freedom of conscience, protection of freedom of expression, protection of freedom of assembly and association, protection of freedom of movement, protection from discrimination.

The Constitution guarantees the rights of all individuals while the rights of older persons are reinforced by i) the 2001 National Policy on the Elderly, ii) the Residential Care Homes Act voted in 2003 and iii) the Protection of Elderly Persons' Act voted by Government in 2005.

i) The 2001 National Policy on the Elderly addresses the welfare dimension of the ageing population, inter alia, productive ageing, ageing with dignity and self fulfillment, participative ageing and meaningful ageing. Which incorporates conditions for autonomy and independence.

ii) This Act applies to any establishment which provides, inter alia, personal care and board to persons who by reason of old age, disablement, a physical handicap, dependence on alcohol or drugs. This Act provides for a place of safety for persons in distress.

iii) The Elderly Persons' Act provides, as its name goes, for the welfare and security of the older person.

2. What other rights are essential for the enjoyment of the right to autonomy and independence by older persons, or affected by the non-enjoyment of this right.

Other rights essential for the enjoyment of the right to autonomy and independence are freedom from violence (physical and psychological), freedom from abuse, ageist attitude and neglect.

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

3.1 The key issues and challenges group:

- abuse
- poor living conditions for those living in pockets of poverty, sharing of limited space within a large family
- low revenue
- old age pension snatched by a close member of the family
- ageist attitude
- older persons not reporting they are victims of abuse.

An older person who is a victim of abuse and of an ageist attitude from other people and being from a poor socio-economic background is psychologically affected and so cannot take a well thought decision on his own. An abused person would not enjoy the independence to do what he wants.

3.2 The following Studies, although they have raised issues of an ageing society and abuse, have not specifically looked at autonomy and independence per se :

- a) National Policy on the Elderly, April 2001, by the Ministry of Social Security , National Solidarity & Senior Citizen Welfare and Reform Institutions.
- b) Addressing elderly abuse in an ageing population: the case of Mauritius, May 2014 by Ibrahim Koodoruth, Senior Lecturer in Sociology, University of Mauritius.
- c) Support and Care to the Elderly- The Mauritian Experience, June 2014 by Swaminathan Ragen, Permanent Secretary, Ministry of Social Security, National Solidarity and Reform Institutions .
- d) The Ministry of Social Security set up an Observatory in 2012 which conducted a survey on Protection and Security of the Elderly.

4. What steps have been taken to ensure older persons' enjoyment of their right to autonomy and independence?

The Constitution of Mauritius guarantees freedom of movement to all its citizens.

Mauritius enacted in 2005 the Protection of Elderly Persons' Act with the following main objectives:

-ensure, promote and sustain the physical, psychological, emotional, social and economic protection of elderly persons:

An older person well informed of his rights will enjoy his/her autonomy and independence.

It is to be noted that any aggrieved elderly person may seek a Protection Order from a court of law so as to live his/her life without hindrance. In the event of the breach of the objects of the

Act the perpetrator/abuser can be fined up to MR 50,000 and if that person breaches the protection order he/she may be detained according to law:

This law serves as a deterrent to whoever wants to deprive an older person of his right to make decisions on his own.

Any citizen who reaches the age of 60, whether still working or pensioned off, whatever would have been his/her profession, receives a non contributory old age pension universally applied in the Republic:

That person who does not have to depend on others, even on his close ones, for expenses, is free to spend according to his choice. Earning a pension each month gives the older person a degree of freedom to do things by himself, for example, eat what he wants, go out with friends, buy a book he would like to read.

5. What mechanisms are necessary, or already in place, for older persons to seek redress for the denial of autonomy and independence?

What is in place is The Protection of Elderly Persons Act 2005 which provides for an Elderly Persons' Protection Unit to which an aggrieved person can make a request for an intervention inside the place where his autonomy and independence is threatened. The Unit can take such measures as may be necessary including a Protection Order.

6. What are the responsibilities of other, non-State, actors in respecting and protecting the right to autonomy and independence of older persons.

The press has a role to play in sensitizing the public on older persons either, in situation of dependency or being active in economic and social activities out of their own choice, to respect and protect the right to autonomy and independence of older persons.

The Mauritius Council of Social Services (MACOSS) like other NGOs who campaign for human rights need to include this aspect of rights in their campaign.

Our own NGO, **DIS-MOI**, has been campaigning for the respect of the rights of older persons in the context of an international instrument which would make it binding on States to see to it that the rights of older persons are respected. We are on our second year campaign conducting conferences around the country and publishing advocacy articles in the mainstream media.

Autonomy and Independence has to be a common household expression.

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