

## THE OFFICE OF THE PROSECUTOR FOR THE DEFENSE OF HUMAN RIGHTS OF EL SALVADOR (PDDH)

Contributions on the following specific topics related to Older Adults: "Right to health and access to health services", "Social Inclusion", "Contribution of older people to sustainable development" and "Economic Security", to be addressed by the Open-ended Working Group on Aging at its Thirteenth Working Session at the United Nations Headquarters in New York, April 3 to 6, 2023.

### **Topic 1: Contribution of older people to sustainable development**

#### **Definition**

1. Within the framework of the objective of the Special Law for the protection of the rights of the elderly person (article 1) it is considered of public interest and its purpose is to guarantee, protect and promote the recognition and full enjoyment and exercise, in conditions of equality, of all human rights and fundamental freedoms of the elderly person, through policies, regulations and actions that contribute to their inclusion in society.

#### **Scope of rights**

2. **a) right to equality and prohibition of all forms of discrimination against the elderly based on age. b) right to equality. *Special Law for the protection of the rights of the elderly person:* Article 5. Guiding principles: b) Equality, equity, and non-discrimination; d) Autonomy; c) Independence; f) Participation; h) Rights approach; Art. 6 Rights: a) Not to be discriminated against because of their age; Art. 11 Duties related to participation. *Inter-American Convention on the Protection of the Human Rights of Older Persons:* Article 2. Definitions: "Age discrimination in old age"; Art.- 3. General principles: d) equality and non-discrimination; e) participation; Art. 5. Protected rights: Equality and non-discrimination for reasons of age; Art. 7 Right to independence and autonomy; Art. 8. Right to participation; c) right to freedom of expression. *Special Law for the protection of the rights of the elderly person:* Article 6. Rights: h) Right to express oneself freely; *Inter-American Convention on the protection of the human rights of older persons:* Article 14. Right to freedom of expression and opinion and access to information. d) right of peaceful assembly. e) Right to freedom of association. *Inter-American Convention on the protection of the human rights of older persons:* Article 28. Right of assembly and association. f) Right to participate in the government of their country. *Special Law for the protection of the rights of the elderly person:* Article 6 literal q) Enjoy effective participation spaces that allow them to pronounce themselves and influence issues of their interest; *Inter-American Convention on the protection of the human rights of older persons:* Article 8. Right to community participation and integration. g) Right to development.**

## **State obligations**

3. The inclusion of older people in development is essential if no one is left behind; Preparing for aging is vital for development to be effective and sustainable; The participation of older people is as key to the implementation of the SDGs as any other population group; Age-disaggregated data is essential for inclusion and accountability.

## **Implementation**

4. A good practice in El Salvador in recent years is the active participation of older adults organized in consultation spaces for the development of regulations, policies, worktables, spaces in the Governing Body of the Protection System. From these spaces, older adults had a legislative influence for the formulation, approval, and ratification of basic rules of specialized protection such as the Special Law for the protection of the rights of older adults and the Inter-American Convention on the protection of rights humans of the elderly.

## **Topic 2: Economic Security**

### **Definition**

1. The national regulations for the protection of the elderly do not have a definition of economic security; however, article 3 g) of the Inter-American Convention on the Protection of the Human Rights of Older Persons recognizes the right to economic security, which is important to guarantee dignified aging for this sector of the population and satisfying their needs. in a sustainable manner, that is, to have sufficient economic resources to ensure well-being and a good quality of life; This right is closely related to the right to social security, which is recognized in article 6 x) of the Special Law for the Protection of the Elderly Person, which contemplates the right to a contributory and non-contributory pension of older adults, as available resources so that they can achieve a decent standard of living.

### **Scope of rights**

2. Provide references to existing national legal standards related to the economic security of the elderly or normative elements such as:
  - a) **The right to social security**; including the regular adjustment of benefits with changes in living costs: The social security system in accordance with the Special Law for the Protection of the Elderly Person, article 19 a) establishes that the amounts of old age pensions must be reviewed periodically to achieve an adjustment of pensions according to the cost of living. In this regard, the Legislative Assembly recently approved the Comprehensive Pension System Law, which entered into force on January 1, 2023, establishing a 30% increase in the amount of

the old-age pension; however, not all people will enjoy this benefit, leaving out those who made use of the advance payment from their individual pension account, which frames the inequities in this sector of the population.

- b) **Right to an adequate standard of living, including housing, clothing, food, and water, among others:** Article 3 of the Special Law for the Protection of the Rights of the elderly, establishes the responsibility of the State to guarantee older adults the enjoyment of their human rights and all those necessary benefits that allow them to achieve an adequate standard of living and the development of other human rights.
- c) **Right to work;** and if there is a minimum wage or some alternative mechanism that ensures the adequate standard of living, and if there is an indexation system with regular adjustments; The right to work is enshrined in article 37 of the Constitution of the Republic, article 6 l) the right to employment in decent and adequate conditions in accordance with the capabilities and experience of the elderly person, article 144 of the Labor Code establishes the right to earn a minimum wage and the minimum wage adjustment system through the National Minimum Wage Council; which must be adjusted to meet the basic needs of older adults to protect and ensure human rights, respect for equal opportunities and inclusion and also guarantee the right to social security.
- d) **Prohibition of all forms of discrimination against the elderly for reasons of age, alone or combined with other causes, in everything related to economic security:** Article 6 of the Special Law for the Protection of the Rights of the Elderly, establishes the prohibition of all forms of discrimination against the elderly, despite the fact that there is regulation in this regard, actions are needed to reduce the levels of discrimination against this sector.
- e) **The connections between the relevant economic, social and cultural rights with the right to freedom of expression, including the freedom to seek, receive and disseminate information; and rights of peaceful assembly and freedom of association;** The Constitution of the Republic of El Salvador in articles 6, 7, 18, establishes the rights to freedom of expression, including the freedom to seek, receive and disseminate information; and rights of peaceful assembly and freedom of association, in the same way the Special Law for the Protection of the Rights of the Elderly in article 6 h) provides the right to freedom of expression of the elderly, if in any way these are limited, the economic, social and cultural rights are affected and the economic security of the elderly cannot be guaranteed, therefore the quality of life would be reduced.

- f) **Free and meaningful participation of the elderly and their representative organizations in all matters related to guaranteeing their economic security, including political processes;** Articles 8 f) and 11 of the Special Law for the Protection of the Rights of the elderly provides for the state obligation to create participation spaces for older persons to participate in all those decisions of interest that guarantee the economic security of this sector.
  
- g) **Access to prompt remedies and reparations when the rights of the elderly have been violated.** There are mechanisms for redress when the rights of older adults have been violated, the Constitutional Chamber of the Supreme Court of Justice, and the Office of the Human Rights Ombudsman, by virtue of the provisions of articles 174 and 194 of the Constitution of the Republic.

### **State obligations**

- 3. Social protection and social security schemes should not discriminate based on age, gender, disability, or any other reason; social pensions should be universal to effectively reach all older people, including those living in poverty; social pensions should be of adequate levels to guarantee income security for the elderly.

### **Implementation**

- 4. With the aging of the population, universal social pensions represent the most effective way of providing income security to all people as they age. Despite this pressing need, the pension system currently does not provide adequate coverage for most older people and often does not produce equal results for women and men. Less than 20% of older people receive a pension, and women are less likely to receive it than men and in extremely low amounts and which do not meet human rights standards of dignity.