

Guiding questions for the twelfth session of the General Assembly open-ended working group for the purpose of strengthening the protection of the human rights of older persons

**ILO contribution
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Focus area 1: Contribution of older persons to sustainable development

The Scope:

Older persons have the right to contribute to sustainable development. The right to participate in, and contribute to, development is affirmed in the Declaration on the Right to Development. Article 25 of the International Covenant on Civil and Political Rights recognizes the right to participate in public affairs. Effective and meaningful participation enables the advancement of all human rights. On the other hand, when older persons are denied the ability or opportunity to contribute, or when their contribution is unrecognized or devalued, their dignity is denied. Understanding the contribution of older persons to sustainable development as a right enables States to identify steps that can be taken to uphold their dignity.

Substantive guiding questions:

National Legal and Policy Framework

1. What are the legal provisions, policy frameworks in your country that recognize older persons' right to participate in and contribute to sustainable development? This could include, but is not limited to:
 - a) ensuring that relevant human rights (in particular the right to freedom of opinion and expression, the right of access to information, and the rights to freedom of peaceful assembly and of association) are protected and implemented;
 - b) protecting and enhancing civic space and collaboration with civil society that represents the voices of older persons in sustainable development;
 - c) good practices to ensure older persons' participation in, and contribution to sustainable development.

Many countries might not have any of the above in the form of legal provisions, however most countries will have legal provision for older people who participate in labour markets. One of the main contributions of (older) workers to sustainable development happens through their work - as

Guiding questions for the twelfth session of the General Assembly open-ended working group for the purpose of strengthening the protection of the human rights of older persons

long as the work is decent and sustainable in nature. Therefore, an area could be added linked to countries' provisions for decent work for older people.

2. What are the challenges faced by older persons for the realization of their right to contribute to sustainable development at national and international levels?

Older persons contribute to sustainable economic and social development notably by participating in the labour market and sharing their extensive work experience but also, once in retirement, provided that they benefit from an adequate income security thanks to old age pensions, through their ability to engage in community services or within their families to less marketable activities that are nonetheless of significant importance for sustainable development. From that perspective, the age at which national legislations authorize people to go on retirement should be established in such a way as to allow older workers to make the most of their capacity to contribute to their societies' sustainable development, duly taking into account their actual working ability in older age and allowing them to progressively plan their transitions out of the labour market. It is therefore important that retirement age is not established too high without taking into account the difficulty older persons may face to remain in the labour market above a certain age. ILO social security standards establish the age survival beyond which should entitle to an old age pension at 65 years, authorizing this age to be increased with due regard to the working ability of older persons (Convention No.102 on Social Security (Minimum Standards)) or with due regard to demographic, economic and social criteria (which need to be demonstrated statistically) (C128 on Invalidity, Old-age and Survivors' Benefits).

It is also important that age be recognized as a forbidden ground for discriminating against older persons in the labour market. By facilitating the transition into retirement (including through partial retirement pensions), social protection systems can significantly facilitate the transmission of skills and know how towards younger workers towards the end of working lives thus contributing to numerous sustainable development objectives.

3. What data, statistics and research are available regarding older persons' contribution to sustainable development?

Again, if the focus on older people's contribution through their work is taken into account, a specific question could be added with regard to labour market information for older worker – something lacking in many countries.

Equality and non-discrimination

4. What measures are being taken to eliminate ageism, ageist stereotypes, prejudices and behaviors that devalue older persons' contribution to sustainable development?

Remedies and Redress

Guiding questions for the twelfth session of the General Assembly open-ended working group for the purpose of strengthening the protection of the human rights of older persons

5. What mechanisms are necessary, or already in place, for older persons to lodge complaints and seek redress for denial of their right to participate in and contribute to sustainable development?

Guiding questions for the twelfth session of the General Assembly open-ended working group for the purpose of strengthening the protection of the human rights of older persons

Focus area 2: Economic security

National legal and policy framework

1. What are the legal provisions and policy frameworks in your country that guarantees the minimum essential level of the enjoyment of economic, social and cultural rights, in particular the right to an adequate standard of living?

From a social protection perspective, economic security in old age is essentially guaranteed by way of the old age benefits that older persons should be receiving once in retirement but also by way of so called “bridging” unemployment benefits securing a so to say tunnel of protection in case older persons get laid off a few years before retirement age without a reasonable prospect of finding employment. ILO social security standards provide a useful reference when it comes to securing income security in old age. They indeed establish a minimum level of protection to be reached through the various types of social protection mechanisms, be they “contributory” (financed by way of employer and workers contributions) or non-contributory (tax-financed). These minimum levels are determined by reference to the level of earnings in each national context – for example, social insurance mechanisms need to replace a certain percentage of older persons’ previous earnings; public tax-financed schemes providing flat rate pensions need to have these established at least at a certain level by reference to a percentage of the standard wage prevailing for unskilled labour; and means tested social assistance schemes need to at least complement beneficiaries’ resources to allow them to live in health and decency (C102) or dignity (R202). As of 2012, the Social Protection Floors Recommendation No.202 established income security in old age as one of the four basic social security guarantees that should be guaranteed to all.

As under Focus area 1, the question could already indicate that legal provisions and policy frameworks should also include those linked to labour market participation.

Would countries know, what cultural rights are?

2. How is poverty defined in the national policy framework?

3. What are challenges faced by older persons living in poverty, including the impact of intersectional discrimination and inequality based on age, gender and other grounds?

While this is one of the key questions, it is not clear why it comes under the heading “National, legal and policy framework”. It would deserve a separate section

Poverty in old age is a concern that most social protection systems around the world are facing. Low level of earnings during active age inevitably result in also low old age pensions. Often, reforms of pension systems carried out in the last 20 years have hardened the eligibility conditions

Guiding questions for the twelfth session of the General Assembly open-ended working group for the purpose of strengthening the protection of the human rights of older persons

and/or the formulas for the calculation of old age pensions, which have resulted in lower income security in old age. Another concern is the absence of statutory provisions of the periodic revision of the level of old age pensions when compared to the cost of living and the level of earnings in the country. The absence of proper such mechanisms results in the purchasing power of old age pensions being eroded over time, thus compromising the economic security of older persons. https://www.ilo.org/global/publications/books/WCMS_817572/lang--en/index.htm

4. What data, statistics and research are available regarding older persons living in poverty?

Progressive realization and the use of maximum available resources

5. What steps have been taken to address economic insecurity and poverty in older age and to ensure the right to an adequate standard of living for older persons?

Over the last couple of decades, guaranteeing the economic security of older persons has become a major concern for public policies. Where large parts of the national population was not eligible for a contributory old age pension, there has been a global trend to set up or expand the reach of tax-financed old age pensions open to all residents beyond a prescribed age (subject to but in many cases also without a means-test). While this trend is welcome as it allows to extend protection in old age to previously unprotected groups of persons and is aligned with the policy recommendations contained in ILO social security standards advocating for building comprehensive systems based on the most efficient combination of benefits and schemes, the level of these tax-financed pensions has generally been insufficient to allow the beneficiaries to live a dignified life as required by C102 and R202. (see here for more information https://www.ilo.org/global/publications/books/WCMS_817572/lang--en/index.htm)

6. What is the impact of macroeconomic policies on economic insecurity and poverty among older persons and vice versa? What policy options are available and/or implemented in order to expand fiscal space and maximize available resources to ensure economic security and the right to an adequate standard of living for older persons?

ILO social security standards establish certain core principles which should govern the design and operation of social protection systems. Among those principles, the right to a predictable benefit prescribed by law provided until death occupies a central place (R202, para.3). Indeed, in cases where the national pension system has entirely shifted and replaced the solidarity-based schemes by privately managed ones based on the principle of capital accumulation through individual accounts, this core principle is impossible to be observed. Therefore, making sure that public policies regarding the basic national pension systems remain anchored in the internationally established architecture for social security helps guaranteeing both the human right of older persons to social security (UDHR) and that the social protection systems in sustainably financed with due regard to social justice and equity (R202 para.3).

Guiding questions for the twelfth session of the General Assembly open-ended working group for the purpose of strengthening the protection of the human rights of older persons

Again, employment and labour market policies should be added as policy area. Macroeconomic in many countries would not even see older people as a target group, so one would get very few answers to this question. However, if macro-economic policies become employment-sensitive (and do not only focus on stabilizing inflation and exchange rates) as is recommended by the ILO (including in Convention 122, the ILO Centenary Declaration for the Future to Work and the Call to Global Call to Action for a Human-centred Recovery from the COVID-19 Crisis that is Inclusive, Sustainable and Resilient), macroeconomic policies become directly relevant for the economic security of older people.

6. What good practices are available in terms of ensuring older persons' economic security, including through a life-course approach?

As the public institution accompanying all members of society from the womb until after the grave, universal social protection represents the incarnation of a mechanism providing protection throughout our life-courses. By organizing the social and financing solidarity (two principles recognized by R202 as at the core of social protection systems, para.3), social protection systems represent one of the most efficient and powerful means by which members of society are united solidarily – the sick and the healthy, the young and the old, the poor and the rich, women and men, the rural and the urban, etc.

Equality and non-discrimination

8. What measures are being taken to eliminate ageism and discrimination based on age that prevent older persons to access economic and other productive resources, including financial services, land, adequate housing and the right to inheritance?

Remedies and redress

9. What mechanisms are necessary, or already in place, for older persons to lodge complaints and seek redress for denial of their economic security and enjoyment of the right to an adequate standard of living?