



PROCURADOR

DE LOS DERECHOS HUMANOS

Substantive inputs

Questionary

Fourteenth Session of the Working Group on Ageing

Guatemala, april 2024

**14th session of the Open-ended Working Group on Ageing
Guiding questions for the focus area on “accessibility, infrastructure and habitat
(transport, housing and access)”**

National legal and policy framework

1. What are the national legal provisions and policy frameworks that recognize older persons’ rights to accessibility, infrastructure and habitat (transport, housing and access)? This could include, but is not limited to:

a) the right of older persons to adequate housing, including land, property and inheritance.

According to the ¹“Decree Number 9-2012, Housing Law” it establish as a human right the access to an appropriate, healthy housing for the guatemalan people, without economic, age, gender or social condition discrimination. It is a responsibility of the government to promote and provide and special protection to the children, single mothers and our elders. Also, the “Decree Number 80-96, Protection Law for the Older People²”, says that the Guatemalan government must provide as a public and a private service, housing programs for this specific part of the population. It’s important to recognize that those programs must consider their physical and psychological necessities for the construction of the neighborhoods.

b) the right of older persons to access and enjoy, on an equal basis with others, the physical environment, transportation, information and communications (including ICTs), and other facilities and services open or provided to the public, both in urban and in rural areas (e.g. buildings, roads, transportation and other indoor and outdoor facilities, schools, housing, green spaces, medical facilities and workplaces; information, communications and other services, including electronic services and emergency services).

Even though there is a national law about the accessibility to a house and a public transportation, in practice that doesn’t happen, there is a breach caused by the lack of specific programs that can work according to this law. About the “TICS”, most of the elder population don’t have accessibility to them, especially because of the costs that represent to get involved in learning the uses of the new technologies. It’s important to mention that the offer of a free program for learning the “TICS” is really small.

c) policies/programmes that enable older persons to live independently and to be included in their communities as they age.

There are not

¹ Decreto Número 9-2012 Ley de Vivienda

² Decreto Número 80-96, Ley de Protección para las Personas de la Tercera Edad

2. What are the challenges and barriers faced by older persons for the realization of their right to accessibility, infrastructure use and habitat (transport, housing and access) at the national and international levels?

There is a lack of the institutionalization of a governing body that can work with the surveillance functions, applicability and compliance with current internal law and that is able to promote new government politics to innovate the programs focused on remove the barriers that prevent them to having access to an efficient public transportation, housing and friendly infrastructure.

Data and research

3. What data, statistics and research are available at the national level regarding older persons' rights to accessibility, infrastructure and habitat (public transport, housing and access)? Equality and non-discrimination

There is information about the total of the elder people population according to the "Population and Housing census" in 2018 made by the "Nacional Statistics Institute" Also, in 2022 the Institute made a national survey about the costs and bills of the Guatemalan population by using age ranges.

4. What measures are being taken to eliminate ageism, ageist stereotypes, prejudices and behaviours that hinder older persons' rights to accessibility, infrastructure and habitat (transport, housing and access)?

Actually there are no specific measures in guatemalan government.

Remedies and Redress

5. What mechanisms are necessary, or already in place, for older persons to submit complaints and seek redress for denial of their rights to accessibility, infrastructure and habitat (transport, housing and access)?

Because of the lack of institutional politics in the guatemalan government that help the elder people to make complaints, its convenient to make changes on the "Decree Number 80-96, Protection Law for the Older People ", for having a governing body that is able to do those kinds of actions and give the appropriate advice and support to present the complaints, or for the reparation of the transportation, housing and accesibility instead.

14th 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

National and local legal and policy framework

1. What are the national and local legal provisions and policy frameworks in your country that guarantee

a) right to equality and prohibition of all forms of discrimination against older persons on the basis of age, alone or combined with other grounds, in the context of participation in public life and in decision-making processes;

The discrimination is a crime written in the Guatemalan law. (Penal Code Article 202 bis³);). In practice the complaints that people present are founded in reasons like gender or ethnic discrimination, not by age reasons. Now a they ther is no public poltics that is doing specific actions about the discrimination in the participation of public activities and decision making.

b) elimination of all forms of ageism and age discrimination from laws, frameworks, programs, policies, strategies and practices regarding participation in public life and in decision-making processes;

It doesn't exist.

c) right to freedom of expression, including freedom to seek, receive and impart information;

d) right of peaceful assembly;

e) right to freedom of association;

f) right to take part in the government of one's country, directly or through freely chosen representatives;

g) active, free and meaningful participation of older persons and their representative organizations in all matters related to participation in public life and in decision-making processes;

According to the Decree Number 80-96, Protection Law for the Older People, it establish that the Guatemalan Government must guarantee the elder people right to keep participating in the country development, considering the freedom of association and peaceful meetings, also de participation in political activities and the making decisions processes.

h) access to prompt remedies and redress when older persons' above mentioned rights are violated.

It doesn't exist.

³ Decreto Número 17-73 Código Penal.

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

There are not.

Data and research

3. 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.

There is no a resource that can be a reference about this information.

Equality and non-discrimination

4. 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?

The challenge is the compliance of the Guatemalan state to have institutions that actually works according to the internal law, for help the people that are 60 years old or more, the rights that they have.

Accountability

5. 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?

The justice is free and equal for everyone, according to the "Political Constitution of the Republic " and the other laws that are part of our regulation. That is why all the elders, if they want to, can present a denounce to the corresponding court.

14th session of the Open-ended Working Group on Ageing Guiding questions on the normative content related to social inclusion

Definition

1. How are the key human rights related to older persons' social inclusion defined in the national and local legislation in your country? If definitions are not available, how should such rights be defined considering relevant existing national, regional and international legal frameworks?

According to the "Decree Number 80-96, Protection Law for the Older People", it establishes that they have the human right to keep participating in the development of the country. Nevertheless, in real life that is something that is not happening, because of the lack of a political institution that shows the elders as people who have rights.

Scope of the right

2. Please provide references to existing national legal standards relating to older persons social inclusion on normative elements such as:

a) the right of older persons to take part in cultural life;

It does not explicitly appear in the Protection Law for the Elderly; it only refers to a percentage discount without specifying the amount to which older people will have rights when entering cultural centers.

b) older persons' inclusion in the digital atmosphere.

There is not a specific national law about it.

c) ensuring that older persons can live independently and be included in the community.

According to the "Article number 6 of the Decree Number 80-96, Protection Law for the Older People.

d) ensuring the social inclusion of older persons living in institutions.

Actually, there is not a specific law that includes what is the appropriate work of those institutions. There is only one internal rule in the "Department of Regulation, Accreditation and Control of Establishments intended for the care of the elderly", that doesn't have specific rights for the people who are residents of those institutions.

e) older persons' inclusion in intergenerational policies and programs.
That doesn't exist.

f) Access to prompt remedies and redress when older persons' rights related to social inclusion are violated.
That doesn't exist.

State obligations

3. What are the measures that should be undertaken by the State to respect, protect and fulfil relevant human rights to ensure the social inclusion of older persons?

The institutionalization of the actions in the public politics that can guarantee that the older people can participate in the development of the country in all the areas. According to that it can guarantee the economics, socials, cultural, political and civil rights that they have.

Special considerations

4. What special measures and specific considerations should be considered to expect, protect, and fulfil relevant human rights to ensure the social inclusion of older persons?

First, it's important to show that the older people are subject rights. Then, it is necessary to consider checking the internal law to think about an amendment proposal considering the human rights, also to generate contributions related to the proposal of a universal document that help to delete the differences between the older people, consider their inclusion in society.

Implementation

5. What are the best practices and main challenges faced by your country in the adoption and implementation of relevant human rights to ensure the social inclusion of older persons?

The challenges that they must face are the marginalization, the exclusion and the invisibilities that the older guatemalan people suffer, and that don't let them guarantee a real social inclusion.

14th session of the Open-ended Working Group on Ageing Guiding questions on the normative content related to right to health and access to health services

Definition

1. How is the human right of older persons to the highest attainable standard of physical and mental health defined in the national and local legislation in your country? If definitions are not available, how should such rights be defined considering relevant existing national, regional, and international legal frameworks?

In the “Political Constitution of the Republic” there is a definition that the health is a fundamental right without discrimination. According to that, the Guatemalan government must guarantee the right to health, through the public health institutions. Also, the Guatemalan government must promote prevention, healing and rehabilitation specific actions for the old persons. Those actions are necessary for let them enjoy the physical, mental and social wellness.

2. The human right to health encompasses both access to health care and attention to the material and other conditions which are necessary for its full enjoyment. What provisions have been made that older persons enjoy access, on an equal basis with others, to social protection, adequate water and sanitation, adequate housing and to health education?

According to the “Decree Number 80-96, Protection Law for the Older People”, in the chapter about the security and social prevention, the older people have the right to a economic income, through the access to jobs without the discrimination. Also, the Guatemalan Government (in public and private sectors) must promote housing programs for older people. Also, in the housing programs they must consider their needs in order to let them enjoy a physical and social life in healthy environments according to their economic reality.

Scope of the right

3. What are the key normative elements of the human right of older persons to the enjoyment of the highest attainable standard of physical and mental health?

The Ministry of Public Health and Social Assistance must create a plan that includes health attention with a geriatric and gerontological approach for the attention of the older people, according to the “Ley de Protección para las Personas de la Tercera Edad.”

Please provide references to existing standards on elements including but not limited to:

- a) Prohibition of all forms of discrimination against older persons on the basis of age, alone or combined with other grounds, in all matters related to health.

There is an explicit prohibition of all the discrimination ways against the older people, because of their age, only for this reason or with this one and any other, in all the aspects related with health.

- b) Provision of promotive, preventive, curative, rehabilitative and palliative health facilities, goods and services, as well as health care and support, including on aspects such as quality of care, long term and palliative care and support.

Supply of health facilities and the promotion of prevention, healing, rehabilitation services and healthcare, including the aspects like the quality of the attention, palliative health and support in long term.

- c) Availability, accessibility, acceptability and quality of health facilities, goods and services as well as health care and support, including aspects such as quality of care, long-term and palliative care and support.

Availability, accessibility, acceptability and quality of the architecture, the attention and the support of health, including aspects like the quality of the attention, palliative health and support in long term and support.

- d) Exercise of older persons’ legal capacity on an equal basis with others, including the ability to make an informed consent, decisions and choices about their treatment and care.

Exercise of legal capacity of the older people to equal conditions with other people, including the capacity of including the ability to make informed consent, decisions and choices about your treatment and care.

- e) Access to prompt and effective remedies and redress when older persons’ right to health is violated.

There is not a national law related with the long term care and the informed consent, the decisions and the elections about the treatment and the attention.

State obligations

4. What are the measures that should be undertaken by the State to respect, protect and fulfil the human right of older persons to the highest attainable standard of physical and mental health, regarding the normative elements as provided above?

The promotion of laws about the right of the legal capacity of the older people who can exercise their right to informed consent, also the health cares in long term and the palliative health.

Related with the availability, accessibility, acceptability and quality of health facilities and services, they must work in the necessary actions for guarantee the right to health with quality, that allows dignified attention.

Special considerations

5. What special measures and specific considerations should be considered in developing the normative content on older persons' right to health?

Firstly, visualize older people as subjects of rights. Then, consider that aging is a lifelong process, and the stage of old age is not homogeneous, every person is unique and that is why it is necessary to consider biopsychosocial aspects that allow us to understand the heterogeneity of this population sector.

6. How should the responsibilities of non-State parties such as private sector be defined in the context of the human right to health of older persons?

The responsibility of the parts that are not part of the government are: the observance of specific actions that facilitate access to the right to health of older people, without distinctions based on age that lead to the violation of this right.

Implementation

7. What are good or promising practices and main challenges faced by your country in the adoption and implementation of the normative framework on the human right to health of older persons?

The recent approval by the Congress of the Republic of the Comprehensive Cancer Law in Guatemala, although it is not specific for older people, it will be a legal instrument so that people aged 60 and over can have access to prevention, early detection, timely treatment, rehabilitation, and palliative care of this disease.

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