



**Consejo Nacional de la Persona  
Envejeciente**

**Inputs on determining possible deficiencies in the protection of the human rights of older persons and the best way to correct them**

**Identification of gaps**

The international framework for the protection of the human rights of older adults has significant deficiencies. The lack of effective implementation and little attention to specific issues, such as abuse and discrimination, access to adequate health services, social inclusion and protection against financial abuse are critical areas that require a comprehensive review. The lack of effective enforcement mechanisms and limited awareness of the particular needs of this group contribute to the insufficient safeguarding of their fundamental rights. Furthermore, the absence of solid mechanisms to guarantee compliance with these rights contributes to the vulnerability of this population group. Overcoming these gaps is essential to ensure fair and dignified treatment of older adults around the world. It is essential to address these deficiencies to ensure more effective and fair protection for all older adults.

**a) Equality and non-discrimination**

The Constitution of the Dominican Republic, in its article 39, establishes that “all people are born free and equal before the law, receive the same protection and treatment from institutions, authorities and other people and enjoy the same rights, freedoms and opportunities. ”, and in turn explicitly states that this must be exercised “without any discrimination for reasons of gender, color, age, disability, nationality, family ties, language, religion, political or philosophical opinion, social or personal condition.”

On the other hand, Law 352-98 on the Protection of the Elderly contemplates among its recitals the non-discrimination of the elderly, and establishes that this segment of the population “cannot be subject to any discrimination based on their age, health, religion, political creed or ethnic reasons.”

In the international regulatory framework, rights that guarantee equality and non-discrimination of this population are not specifically contemplated, for which the following rights are proposed:

1. Equality and non-discrimination based on age



## Consejo Nacional de la Persona Envejeciente

2. Right to life and dignity in old age
3. Right to security and a life without any type of violence
4. Equal recognition as a person before the law
5. Right to remain in your family nucleus
6. Right to social protection
7. Right to integrity
8. Right to insurance

### **b) Violence, abandonment and abuse**

In 2010, the study on “Elder abuse in the Dominican Republic” was carried out, with the sponsorship of the National Council for the Aging (CONAPE) and the United Nations Population Fund (UNFPA). The objective of this was to determine the causes and consequences of the different types of abuse and mistreatment perpetrated on this population segment, in order to strengthen institutional capacities for care and prevention.

According to the findings of this study, as in the records of the Legal Division of CONAPE, there is evidence of psychological, physical, sexual, property abuse, and abuse due to negligence. Generally, these types of violence occur in the family environment of the older adult, perpetrated, most of the time, by the partner, children, grandchildren, and other family members. This type of violence particularly affects older adults with disabilities, whether mental (Alzheimer's, senile dementia, schizophrenia), visual, motor or a combination of these and others, generating a situation of partial or total dependence that makes them more vulnerable to this type of actions.

Regarding national legislation, some address the issue explicitly, others in a general way. In the first case, Law No. 352-98 establishes that “the elderly cannot be harmed in their fundamental rights due to negligence, exploitation, violence, nor can they be punished or be victims of any attack, whether by action or omission.” , and its regulations establish harmful behaviors against older adults.

In general, Law No. 24-97, on domestic and intrafamily violence against women, typifies and establishes penalties for this type of violence, as well as the New Penal Code, Law 550-14, which also sanctions the abandonment of an elderly person who cannot protect himself.

Although some states have national legislation that protects some rights linked to the protection of violence, there must be international instruments that protect this population against financial abuse or property abuse, for example, specific issues in this population

sector that is increasing over time. Likewise, neglect represents a form of abuse that must be addressed as a right to good treatment and well-being.

**c) Palliative and long-term care**

Long-term care includes the last level of care but is addressed comprehensively with a view to achieving the recovery and independence of the older adult. CONAPE has a tool that generates the comprehensive file of the elderly, and through scales and indicators determines the degree of dependence of a person and establishes the intervention plan, level of care and type of care required to improve the category or floor of care in which you are located.

Currently, this care is provided through Care Centers for the Elderly (permanent or long-stay), which are public, private establishments and/or non-profit associations, where the SECARE program is developed (service, training and recreation) offering direct care services to the elderly on a permanent basis (24 hours) such as: accommodation, food, health, education, recreation, training and all services aimed at promoting comprehensive care for the elderly.

It is of utmost importance that the right of this population to be able to count on palliative and long-term care services is made visible as a fundamental right to have a dignified life at all stages, which is why all states must have a clear path to follow in order to protect and incorporate this right internally.

**d) Autonomy and independence**

The right to autonomy and independence in older adults is a fundamental principle for this population sector to enjoy their lives to the fullest, and to be guaranteed other rights must be combined. In this sense, at the national level, Law 352-98 on the Protection of the Elderly, establishes several rights that reaffirm the autonomy and independence of the elderly. First of all, we can mention the right of the elderly person to remain in their family unit. Your family must provide you with the necessary care and will try to make your stay as pleasant as possible. Likewise, it establishes that anyone who "suffers from a serious physical or mental illness has the right to special protection, so that they have easy access to health services" taking all the "essential actions for the prevention and treatment of their own illnesses." of aging."



## Consejo Nacional de la Persona Envejeciente

Other rights guaranteed are free and easy access to public and private services. The right to work, with equal opportunities and all the guarantees that labor laws provide in this regard, without any discrimination. The right to form or form part of any association and to participate widely in community and national public life. Likewise, the right to employment and income generation is connoted as a resource to expand the independence of the elderly, by establishing that a minimum level of resources must be ensured to satisfy the essential needs of the elderly and expand their independence”.

As stated above, to fully guarantee the enjoyment of the right to autonomy and independence of older persons, other rights must be taken into account, such as the right to prior and informed consent, the right to employment and income generation, right to education, culture and recreation, as well as the right to security, respect and dignity. These rights are not specifically contemplated in international instruments for the protection of the human rights of this population, which is why it is necessary to establish an international framework that serves as support so that these rights can be incorporated into national legislation.

In order for older persons to obtain the due guarantee of the right to autonomy and independence, it is necessary to directly enshrine this right as a fundamental one, with the understanding that this will allow the enjoyment and enjoyment of other basic and necessary rights in life. of a person, to guarantee quality of life. Likewise, it is necessary to empower society over the already existing fundamental rights of the elderly, and to establish a regime of consequences for the national regulatory framework instruments on the subject, which guarantees full compliance with these rights.

### **e) Social protection and social security (including minimum levels of social protection)**

The Dominican State contemplates the protection of the economic and social rights of all Dominicans. The Dominican Constitution protects the right to social security and protection, as provided in article 60, “Every person has the right to social security. The State will stimulate the progressive development of social security to ensure universal access to adequate protection in illness, disability, unemployment and old age.

Important decisions have been made to create laws and mechanisms to guarantee universal coverage of citizens. Among these great advances we have social security regulations and institutions.



## Consejo Nacional de la Persona Envejeciente

Law 87-01 that creates the Dominican Social Security System, whose purpose is to establish the Dominican Social Security System (SDSS) within the framework of the Constitution of the Dominican Republic, to regulate it and develop the reciprocal rights and duties of the State and of citizens regarding financing for the protection of the population against the risks of old age, disability, unemployment due to advanced age, survival, illness, motherhood, childhood and occupational risks.

Social protection and security should be universal rights enjoyed by older adults and therefore states must guarantee the progressive elimination of barriers that prevent this from being a reality. To achieve this, it is necessary to have binding instruments that states can adopt and that in turn can be incorporated into national legislation.

### **f) Education, training, lifelong learning and capacity building**

The Constitution of the Dominican Republic in its article 63 establishes the right of every person to receive a comprehensive, quality, permanent education, under equal conditions and opportunities, with no limitations other than those derived from their abilities, vocation and aspirations. consequently: 1) Education aims at the integral formation of the human being throughout his or her entire life and must be oriented toward the development of his or her creative potential and ethical values.”

On the other hand, Law 1-12 on the National Development Strategy establishes in its article 8, as a second strategic axis, “a society with equal rights and opportunities, in which the entire population is guaranteed education, health, decent housing and quality basic services, and that promotes the progressive reduction of poverty and social and territorial inequality.”

In the sectoral legal framework, Law 352-98 on the Protection of the Elderly establishes in its article 15 that “every elderly person has the right to access formal and informal education at all levels and modalities (...) The Access to education must be given under conditions of equal opportunities.”

The older adult population must have guarantees that ensure access to education without any type of discrimination, therefore, states are called to create educational programs that facilitate their learning, as well as design and implement continuing education policies. For this, it is necessary to have universal instruments that mark the path forward for all key actors and that can fill the existing gaps in the human rights of this population.

### **g) Right to work and access to the labor market**

The Dominican Constitution defines the right to work as a duty and a social function that is exercised with the protection and assistance of the State.

The right to work for older people is contained in Law No. 352-98 on the Protection of the Elderly, as a conglomerate of actions aimed at guaranteeing the participation and permanence of the elderly in working life, without discrimination in aspects such as: adequate working conditions, salaries, work environment and work schedules for older adults.

In the Dominican Republic, the right to work is a fundamental right, which must be exercised without discrimination, therefore, for older people to have access to the labor market, there are fundamental regulatory elements that must be met, such as:

- Non-discrimination by age to access the labor market.
- Guarantee of equality and gender equity for older people
- Syndical freedom
- Guarantee in working conditions and environment.
- Guidance and training for elderly people on their retirement and social security rights.

States must take the necessary measures to respect, protect and make effective the right to work and access to the labor market of older people, and for it to be effective, universal mechanisms must be established that set the guidelines for this.

#### **h) Access to justice**

The Constitution of the Dominican Republic guarantees access to justice through the right to equality enshrined in its article 39, which states “All people are born free and equal before the law, they receive the same protection and treatment from the institutions, authorities and other people and enjoy the same rights, freedoms and opportunities, without any discrimination based on gender, color, age, disability, nationality, family ties, language, religion, political or philosophical opinion, social or personal condition.”

There is no specific definition of access to justice for older adults, however, the Dominican Constitution establishes that every person, in the exercise of their rights and legitimate interests, has the right to obtain effective judicial protection, with respect for the due process that will be made up of the minimum guarantees established in the aforementioned article, which constitutes the right of access to justice for all citizens.



## Consejo Nacional de la Persona Envejeciente

As normative elements of the rights of older persons that we consider key so that this population can access justice on equal terms with others, we highlight the following:

- Non-discrimination by age to access the labor market.
- Guarantee of equality and gender equity for older people
- Syndical freedom
- Guarantee in working conditions and environment.
- Guidance and training for elderly people on their retirement and social security rights.

Although access to justice is a universal right, in the case of the elderly population it is necessary to take special considerations to guarantee this right on equal terms with other groups. It would be very helpful to have a legally binding mechanism so that states can commit even more to designing and implementing these policies.

### **i) Contribution of older persons to sustainable development**

The Dominican Republic has provisions and regulations that establish measures for sustainable development, aimed at guaranteeing human rights, enshrined mainly in the Dominican Constitution, Law 352-98 on Protection of the Elderly and Law 1-12 of the National Strategy for Development 2030.

The Dominican Constitution establishes in a generic manner, free participation and without any type of discrimination in activities that promote sustainable development such as: freedom of association, assembly, expression and information.

Likewise, the Dominican State encourages and guarantees the participation of civil society, through the provisions of the Dominican Constitution and Law 122-05 and its implementing regulations, which regulate Non-Profit Associations (ASFL) that work in collaboration with civil society, the State and other national and international entities to improve the quality of life of older adults and raise their voices.

This is one of the main good practices to guarantee the participation and contribution of older people in development, since participating in the activities offered to them by NPOs, and their inclusion in social programs allows them to contribute their experiences, present their recommendations and socialize them to create initiatives that contribute to sustainable development.



## Consejo Nacional de la Persona Envejeciente

Regarding the regulatory elements, we consider that the measures that the State must take to guarantee the rights of older adults to participate in sustainable development are:

- Strengthen measures for the prevention and promotion of non-discrimination and ageism in society and in the labor sector.
- Strengthen actions that promote education, entrepreneurship, technical, digital, cultural and political training of older people.
- Promote senior citizen oversight associations for services to this population.
- Establish a retirement policy where the person who wishes to do so can continue participating in the scenarios of their life in a manner consistent with their conditions, avoiding the displacement of generations and facilitating intergenerationality, which is a fundamental approach for sustainable development.
- Constitutionalize the right to care and self-care of older adults.

### **j) Economic security**

In the Dominican Republic, economic, social and cultural rights are enshrined in the Dominican Constitution, within which we can highlight rights that guarantee an adequate standard of living for the elderly population, such as: the right to food security, right of the family, the protection of the elderly, the right to housing, health, work, education, culture, sports, among others.

Likewise, Law 352-98 on the Protection of the Elderly enshrines rights such as the right to education, culture and recreation, the right to social well-being, the right to employment and income generation, the right to health and nutrition, right to housing, security, respect and dignity, among others.

There is no specific definition of economic security for older adults in Dominican legislation, however, in the Dominican Constitution,<sup>1</sup> The right to work is protected, and is recognized as a means that allows the worker to live with dignity and cover basic material, social and intellectual needs for himself and his family. Other regulations related to the economic security of this age group are; Law 352-98 on the Protection of the Elderly, Law No. 87-01, which creates the Dominican social security system and law 1-12 on the national development strategy.

### **k) Right to health and access to health services**

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<sup>1</sup>Art. 69, Constitution of the Dominican Republic



## **Consejo Nacional de la Persona Envejeciente**

The Dominican Republic has in its regulatory framework provisions that guarantee the right to health, as well as access to health services, aimed at protecting human rights, enshrined mainly in the Dominican Constitution, General Health Law 42-01, Law 352-98 on Protection of the Elderly, and Mental Health Law 12-06.

The Dominican Constitution regarding the protection of the elderly establishes the guarantee of assistance to the elderly and the promotion of integration into an active community life, as well as comprehensive social security services and subsidy. food in case of destitution.

The State ensures that care for older adults goes beyond the pathological approach and encompasses their entire well-being, taking into account the interdependence of physical, mental, social and environmental factors. Health care must allow the participation of the entire health, social and family sectors in improving the quality of life of the elderly.

Likewise, develop health services in the community that should encompass outpatient and home care and provide medical examination and advice services in geriatric clinics, health centers and community locations.

As a State, we are committed to promoting law 352-98 on the Protection of the Elderly, which enshrines in its Chapter II the right to health and nutrition of this age group, both to the main actors in formulating actions in favor of this population as well as other nationals, to guarantee that the rights of older adults are fulfilled.

Currently, the challenges that older people face in enjoying the right to health are to ensure that the different State bodies identify synergies and act in an articulated manner to optimize the formulation of public policies that improve access to health services to the elderly, either through programs that prioritize the attention provided to this population group, such as breaking down architectural barriers and difficulties in mobilization and adequate transportation for older adults with some degree of physical limitation or dependency.

Older people face various challenges at an international level in access to health. The lack of care systems appropriate to their specific needs, age-based discrimination, and economic barriers hinder their ability to receive quality health care. Furthermore, low awareness about the importance of comprehensive care for older people contributes to the underestimation of their medical requirements. Overcoming these challenges implies significant reforms in health systems and greater awareness of the particular needs of this segment of the population and the COVID-19 pandemic highlighted all these issues, which



## Consejo Nacional de la Persona Envejeciente

is why it is necessary to have international standards that guarantee the protection of this vital right in this population in a specific way.

### **1) Social inclusion**

The Dominican State has focused on promoting a culture of inclusion and participation for older adults in society, promoting the non-institutionalization of this population group through the different programs executed by CONAPE. At the same time, following the guidelines to achieve the inclusion of vulnerable groups in the country, it has developed legal provisions that guarantee their rights, such as the following: Law 352-98 on Protection of the Elderly, the Action Protocol to guarantee Access to Justice for Vulnerable Groups; its Implementation Guide, and Law 1-12 of the National Development Strategy.

The right to work is constitutionally stipulated as a duty and a social function that is exercised with the protection and assistance of the State. It is the essential purpose of the State to promote decent and remunerated employment. The public powers will promote dialogue and agreement between workers, employers, and the State. It is important to guarantee the participation of this age group through non-discriminatory measures that improve conditions for the benefit of this sector.

In this sense, CONAPE has implemented the “Interns with Wisdom” program through which employment is promoted for older adults with easier scheduling and incorporates their knowledge with young people to promote the integration of generations, facilitating active participation in the economy. of the older adult population.

Regarding institutionalized older adults, CONAPE ensures that they receive social services on equal terms, offering continuous support to be able to access them in case of physical or mental impediments. Likewise, within the permanent care centers, recreational activities have been incorporated with older adults, among which are: walks, celebration of cultural activities, commemoration of special dates, family gatherings, use of technologies to communicate with their loved ones. family.

Currently, the Dominican Republic has a correction and rehabilitation center for older adults deprived of liberty, in Haras Nacionales, with the purpose of providing treatment that allows effective rehabilitation, generating awareness about the crimes committed and commitments in favor of non-commitment. recidivism and ensure equal treatment. This



## **Consejo Nacional de la Persona Envejeciente**

center allows them to undergo training and occupational therapies and to practice a trade that keeps them active and connected to society, despite their situation of freedom.

The challenges at the international level for the social inclusion of older people are notorious. Discrimination based on age and negative stereotypes perpetuate the marginalization of this group. The lack of accessibility to physical and digital environments also limits their full participation in society. Furthermore, the scarcity of programs that encourage intergenerational connection worsens the social gap. Addressing these challenges involves promoting awareness, implementing inclusive policies and creating opportunities that encourage the active and meaningful participation of older people in community life.

### **m) Accessibility, infrastructure and habitat (transport, housing and access)**

Seniors face challenges with transportation, housing and access. The lack of adapted transport infrastructure, accessible housing and adequate public services contribute to their limited mobility. Furthermore, discrimination in access to housing and transportation services exacerbates social exclusion. Overcoming these challenges involves implementing policies that encourage accessible environments, adapted transportation options, and housing designed for the specific needs of older people, thus promoting their independence and active participation in society.

### **n) Participation in public life and decision-making processes**

Older adults face significant challenges to their participation in public life. The lack of representation in decision-making processes, technological barriers that limit access to information and the prevalence of stereotypes that marginalize their voice are some of the obstacles. Promoting inclusive measures, adapting digital environments and raising awareness of the valuable contribution of older people are key steps to overcome these challenges and ensure their full participation in public life.

### **Options on how best to fill the gaps.**

The Dominican Republic is highly committed to the fulfillment and guarantee of human rights, and this is established in its Constitution "the treaties, pacts and conventions related to human rights, signed and ratified by the Dominican State, have constitutional hierarchy and are applicable directly and immediately by the courts and other organs of the State <sup>2</sup>. "

Regarding the international system for the protection of human rights, the country has signed and ratified several international treaties <sup>3</sup>, such as: the convention against torture and other cruel, inhuman or degrading treatment or punishment, the international covenant on civil and political rights. , the convention for the elimination of all forms of discrimination against women, the convention on the rights of the child, the convention on the rights of persons with disabilities, among others. Which have a transversal impact on the rights of older adults.

In relation to the reports to the Human Rights Council in the context of the UPR, the country has presented three reports, the last of them in the period from January 21 to February 1, 2019, where the country's achievements in protection were reported. of human rights, including the elimination of poverty and social development; The right to health; actions against corruption and access to justice; and the fight against human trafficking and discrimination <sup>4</sup>.

In February of this year 2023, the Independent Expert on the enjoyment of all human rights of older persons visited the Dominican Republic, which for 10 days confirmed the protection that the Dominican state provides to the older adult population, highlighting the good work of coordination of the governing body that serves as CONAPE, in this role.

The Madrid International Plan of Action on Aging has served as a guide for the Dominican Republic on the path of implementing public policies that provide guarantees for the

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<sup>2</sup>Dominican Constitution 2015, Art. 74, no. 3.

<sup>3</sup>National Human Rights Plan, page. 44

<sup>4</sup>Ibid. Page 56, paragraph 1



## **Consejo Nacional de la Persona Envejeciente**

protection of the human rights of older adults and which, with the appropriate political will, has been able to contribute to institutional development.

At the regional level, the Dominican Republic belongs to the Organization of American States (OAS), and in this context it has ratified seven of the 12 instruments on human rights in the inter-American system <sup>5</sup>, among them, the American Convention on Human Rights stands out. Human Rights, the Inter-American Convention for the Elimination of all forms of Discrimination against Persons with Disabilities, the Inter-American Convention to prevent, punish and eradicate violence against women “Belem do Pará Convention” <sup>6</sup>, among others.

With regard to the Inter-American Convention on the Protection of the Human Rights of Older Persons, the Dominican state actively participated in the process of construction of this instrument and is carrying out the internal process for accession to it.

In a general sense, these international commitments have a transversal positive impact on the human rights of older people, but it is necessary to have a specific legally binding instrument that can directly define sensitive issues of this population that are not specified in the mechanisms already existing.

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<sup>5</sup>Ibid, p. 52, paragraph 1.

<sup>6</sup>Ibid, Table 7. Status of treaties within the framework of the OAS, page 52.