

**NORMATIVE FRAMEWORK OF THE ISSUES EXAMINED AT THE IX SESSION OF THE
OPEN-ENDED WORKING GROUP ON AGEING**

FOCUS AREA: AUTONOMY AND INDEPENDENCE

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National legal framework

1. What are the legal provisions in your country that recognizes the right to autonomy and independence? Do they have a constitutional, legislative or executive foundation?

The right to autonomy and independence is recognised in India's constitution through the Fundamental Right to Life and Personal Liberty. Under this, the Indian Supreme Court has recently ruled that euthanasia and advanced directives have legal sanctity.

Normative elements

2. What are the key normative elements of the rights to autonomy and independence? Please provide references to existing laws and standards where applicable.

Right to autonomy and independence is an indicator of the quality of life one enjoys. It connotes the freedom to act unconstrained by extraneous influences and the freedom to act according to one's own morals. This proceeds to the idea that the individual's dignity deserves respect irrespective of the condition of her or his life.

3. How should autonomy and independence be legally defined?

Autonomy is the freedom of mind and body to make choices and the freedom from any controlling interferences. Independence is autonomy plus the faculty to develop competence to achieve desired outcomes and the ability to connect with others and for others to have the freedom to connect and understand your needs.

Implementation

4. What are the policies and programmes adopted by your country to guarantee older person's enjoyment of their right to autonomy and independence?

The Maintenance and Welfare of Parents and Senior Citizens Act, Protection of Women from Domestic Violence Act, National Policy for Older Persons, National Programme for Healthcare of Elderly and National Programme for Palliative Care have opened the discourse on the elderly's right to autonomy. Recognition that elderly need state support in the form of subsidised and accessible transportation and healthcare, that they need financial, physical and emotional assistance to preserve their autonomy and independence, have made steady advance. Recently, Indian Supreme Court recognised the importance of advanced medical directives and euthanasia.

5. What are the best practices and main challenges in adopting and implementing a normative framework to implement these rights?

Ensure these are universal rights accessible to all age groups, all communities, all minorities, and people in varying conditions of illness or disability. Attack patriarchy and paternalism in state, society and families that prevents the meaningful exercise of autonomy. Implement the idea of a minimum government focussed on upholding rights and human dignity instead of overstretching in all directions. Dismantle inequalities in societies stemming from race, gender, caste, class, religion, etc.

Equality and non-discrimination

6. Which are the measures adopted to ensure equitable access by older persons to the enjoyment of the right to autonomy and independence, paying special attention to groups in vulnerable situation?

Unfortunately, India is yet to make progress towards identifying the most vulnerable among older persons. Looking at ageing from gender and caste perspective is critical to ensuring equitable access.

Participation

7. The design and implementation of normative and political framework related to autonomy and independence included an effective and meaningful participation of older persons?

No. Other than politicians and a few NGOs and a few government bodies like the Planning Commission and the erstwhile National Advisory Council a participatory approach wasnt followed in furthering autonomy and independence.

Accountability

8. What judicial and non-judicial mechanisms are in place for older persons to complain and seek redress for denial of their right to autonomy and independence

The Maintenance Tribunal constituted by the Maintenance and Welfare of Parents and Senior Citizens Act is the key judicial mechanism. Police officers also play a key role under this Act. The Protection of Women from Domestic Violence Act tasks Protection Officers with ensuring the autonomy and safety of women (Wives, mothers, etc) who complain of domestic abuse. The Hindu Adoptions and Maintenance Act has legal obligations to provide maintenance for parents. The Supreme Court and high courts and human rights commissions and other quasi-judicial bodies of the government are constantly furthering the autonomy of vulnerable groups including elderly.