

## Equality and non-discrimination

### **1. Constitutional and legislative guarantee**

*Does your country's constitution and/or legislation (a) guarantee equality explicitly for older persons or people of all ages and (b) forbid discrimination explicitly on the basis of age? If so, how is the right to equality and non-discrimination defined?*

**Very few countries provide explicit guarantees of equality and non-discrimination on the basis of age.**

The majority of responses indicated that the general principle of equality and non-discrimination is covered in most Constitutions and national laws. Most of them do not make explicit reference to age as a ground for discrimination to be prohibited, or guarantee equality explicitly for older persons. Where such explicit reference to age or older persons exist, the scope of coverage tends to be limited to employment and does not extend to other spheres of life.

However, as the ILO contribution indicates, there has been a steady progress in the adoption of legal provisions prohibiting discrimination on the basis of age. Notwithstanding this, **the scope and coverage are uneven compared to guarantees against discrimination on other grounds. Many inconsistencies and gaps exist** in terms of specificity, legal and material scope, protection from both direct and indirect discrimination, extent of special measures, differential treatment and exceptions, as well as monitoring and access to remedies.

Example: Australia's Age Discrimination Act 2004 prohibits discrimination against persons on the ground of age in the areas of work, education, access to premises, the provision of goods, services and facilities, accommodation, the disposal of land, the administration of Commonwealth laws and programmes and requests for information. Under the Age Discrimination Act, unlawful discrimination can be classified either as direct or indirect. Direct age discrimination occurs when a person is treated less favourably than a person of another age would be treated in the same or similar circumstances because of their age. Indirect age discrimination occurs when a rule or policy applies to everyone but has the effect of disadvantaging a person because of their age.

### **2. Forms of discrimination against older persons**

*Does your country produce information about discrimination against older persons in the following or other areas (employment, access to goods and services, social protection, health care, social care, justice, inheritance, decision-making and autonomy, living environment and others)? If so, what are the main findings?*

**Submissions indicated that older persons are being discriminated in a wide range of areas of their lives**, including justice, ownership and disposal of property, transport, access to other resources, in the media, in education, in housing, in data collection and in development programmes and humanitarian responses. Many respondents reported large number of reported discrimination in **employment**, due to bias against older persons in accessing employment opportunities as well as in existing employment relationships. In many developing countries, inadequate **social protection system** meant that older persons receive little or no pension.

**Multiple discrimination** Older persons, particularly older women, tend to suffer from intersectional discrimination and bear the blunt of the cumulative effect of gender and other discriminations endured throughout their life course. UN Women highlighted that, because of a lifetime of economic disadvantage, older women end up with lower incomes and less access to land, housing and other assets that would help them maintain an adequate standard of living.

HelpAge reported that discriminatory, harmful ageist attitudes and practices are particularly strong against widowed or single older women. Other older women identified as being subjected to intersectional discrimination include older women living with dementia, with HIV/AIDS, without children, with low level of literacy, considered to have a lower social status (caste), without proper documentation and older women living in poverty. ENNHRI project on human rights of older persons and long-term care in six pilot countries found that women make up the vast majority of both residents and care worker, which in turn further contributes to the prevalent systemic gender bias.

**Lack of disaggregated data and information on older persons** Many submissions indicated the lack of research and information, as well as disaggregated data and systematic and periodic trends analysis. Data focusing specifically on age-based discrimination is largely missing from existing population and social surveys.

Becoming 'invisible' as they age: The submission from AGE indicated that in Europe, many States stop collecting national data for people over 74, failing to reflect large differences between the living conditions of 65-74 years old, the 75-84 years old and those older than 85. Vulnerable groups, such as older persons living in institutions, older prisoners or older homeless people are also groups that are often neglected or excluded in data collection.

### **3. Access to services**

*Is there information available about inequality of opportunities or outcomes experienced by older persons in the following areas: (a) availability of, access to and quality of health care services; and (b) financial services?*

**Health care services** Many States provided information on their health care system that provide universal coverage and, in some cases, specialized programmes targeted to the needs of older persons. Notwithstanding this, responses to the questionnaire indicate many cases and risks of both direct and indirect discrimination against older persons in health services. Some respondents indicated that the health care system is based on older persons making relevant claims and applications, which make it difficult for some older persons to claim their benefits because of their lack of knowledge and ability to make necessary application.

Example: According to the 2010 National Survey on Discrimination in Mexico, between 14 and 21.9 per cent of those aged 60 years and over stated that the treatment they received in medical services was insufficient (21.9 per cent), uncourteous (18.1 per cent) and poor (14 per cent). This is due to the lack of articulation in the public social security system regarding the coverage and quality of health services.

**Financial services** Several respondents indicated that age-based discrimination in the area of financial services. Older persons, after reaching a certain age limit, they could no longer obtain credit or insurance, and that age being taken into account when calculating interest rate or insurance premiums. ECLAC reported that several studies found that most retired persons need other income in addition to their State pensions, and that older persons have difficulty in accessing credit as banks charge higher interest rate as older the person is.

Many respondents pointed out to the **prevalence of ageism as a major impediment** for the equal enjoyment of services and benefits by older persons. States and private sector service providers need to eliminate any ageist policies, programmes and practices, and provide information and support to older persons in accessible manner on their rights and entitlements. In designing and implementing social policies and programmes, older persons should be engaged as active participants and partners.

#### **4. Special measures and differential treatment**

*Are there any areas where differential treatment based on old age is explicitly justified (for example: access to goods; mandatory age of retirement; age limits in financial services and products; and age-based benefits)?*

**Special measures and positive actions should be aimed to ensure equality and non-discrimination, both in policies and practice, to address disadvantages faced by older persons.** According to the responses received, special and differential treatment based on age exist in most countries, which are permitted for certain purposes including access to specific benefits or social support. These include health care services and age-based benefits such as discounts in public transportation, education, cultural and recreational activities. At the same time, the responses indicated the existence of it is also common to see age limits in financial services and products, for example in the application of loans or insurances. Mandatory age of retirement varies by country, and some countries have lower retirement age for women (e.g. 65 for men and 60 for women) which results in lower pension contributions and consequently less retirement benefits for older women.