

CONTRIBUTION FROM THE NHRI OF COLOMBIA (Defensoría del Pueblo de Colombia)

Equality and non-discrimination

1) The Constitution or legislation of your country:

a) Explicitly guarantees equality for older persons or persons of all ages

The Political Constitution of Colombia establishes in Article 13 that " *all people are born free and equal before the law, will receive the same protection and treatment from the authorities and enjoy the same rights, freedoms and opportunities without any discrimination on grounds of sex, race, national or family origin, language, religion, political or philosophical opinion*" and although there is no explicit reference to the age within the grounds of discrimination set out there, Article 46 If makes explicit reference to older persons in the following way: " *The State, society and the family will attend to the protection and assistance of the people of the Third Age and promote their integration into working life and community. The State shall guarantee the social security services and the food subsidy in the case of poverty*".

Colombian legislation also has a set of standards (Law 1315/09, 1276/09, 1251/08, 1171/07, among others) which set out a series of measures on the basis of the constitutional principle of the protection and assistance to elderly people in Colombia.

Notwithstanding the foregoing, the Ombudsman considers that in the strict sense, neither the Constitution or the Colombian legislation guarantee total and explicitly, the equal and effective enjoyment of human rights for elderly people in the country, although if they have the purpose to protect and assist older persons in situations of greater poverty and vulnerability, indigence and weakness manifested under the principle of prioritization included in the Constitution.

b) Explicitly prohibits discrimination on the basis of age? If so, how is defined the rights to equality and non-discrimination?

The Law 1482 of 30 November 2011 "By means of amending the Criminal Code and established other provisions" also called anti-discrimination law is intended to *ensure the protection of the rights of a person, group of persons, community or people, which are violated through acts of racism or discrimination*".

However, responding in a timely manner to the question, does not exist in this law an explicit reference on the basis of age but as aggravating circumstances; the above supported to the extent that article 3°. Defined as acts of racism or discrimination. "*Which arbitrarily prevent, obstruct or restrict the full exercise of the rights of persons by reason of their race, nationality, sex or sexual orientation*". In paragraph 5 of Article 134 with respect to the aggravating circumstances where we read that "*The conduct is directed against children, adolescents, the elderly person or adult*".

2) Does your country produces information about discrimination against older persons in the following areas? If so, what are the main findings?

In Colombia, social statistics are available that give account of certain dimensions relating to discrimination against older persons, population censuses, large socio-demographic surveys and systematic records of national representation. "Employment", "access to goods and services", "social protection" and "ways of life" are dimensions that can be assessed on the basis of official information, produced by institutional powers assigned by law, DANE, IML, SISPRO, Ministries of central level, Presidency of the Republic, among the main ones. For other dimensions as "justice, inheritance", "decision-making and autonomy", there is no information at the national level, or departmental level; the information available on these topics referred to specific groups, analysis of cases and data at the local level.

- Employment

Although the labor inclusion and the removal of barriers of access to employment for older persons has been promoted by the *national aging and old age policy 2007 - 2019*, in the country among older people the activity rate decreases with age, the inability to work is much higher in the late age (70 and over) in comparison with the early (60 to 69 years). A recent survey of the country indicates that 43.6% of men and 12% of women with 60 years of age and more are working; the majority of men work as "employees" and women as "independent". The 61% of older women performed "household chores" as main activity, gender gaps in labor activity, especially in older populations are considerably high (2015 Institute of Aging, based on GEIH 2013).

- Access to goods and services

The shelter conditions of the room can be considered an indicator of access to "goods and services" on the part of older people. Although in Colombia the housing deficit has declined considerably in the last few decades, based on recent statistics, it is evident that in old age, elderly men, and people with 70 or more (compared with older women and the group 60 to 69 years) in a little higher proportions reside in dwellings with "critical overcrowding"

(7%), without health care services (4%), with no drinking water supply (6%), and in housing "without floor" (6%) (Institute of Aging 2015, based on GEIH 2013).

- Social protection (health care and pensions)

In the country there are systematic records of national representativeness and departmental breakdown to analyse two major dimensions of social protection for older people, access to the SGSSS (General System of Social Protection in Health) and access to the pension system; both records are systematized by the SISPRO (Social Protection System that manages the Ministry of Health).

Based on these sources stated that the coverage of the SGSSS is universal among older people in the country. However, there are differences in the coverage of the contributive and subsidized regimes, to the contributive regime belong people with capacity to pay, usually with a regular income, and to the subsidized regime belong people officially classified in situation of poverty and social vulnerability. Late in old age is the most common affiliation to the subsidized regime, the 57% (of the total of older people affiliated to this regime); early in old age is also a little more the affiliations to the contributory regime (2015 Institute of Aging, based on SISPRO 2013).

In Colombia, a little less than 80% of the population of the country does not have a pension, which is extremely low in the light of the retirement age for men and women in the country (62 and 57 years respectively). In the country, less than one fifth of the population of adults in the early old age is retired (16.9%), whereas in the late-age population this percentage is over 30% (2015 Institute of Aging, based on SISPRO 2013).

- Social Assistance

The Program of Solidarity with the older adults "Colombia elderly", serves the people of older adults who are homeless and do not have a pension or live in indigence or in extreme poverty, through the delivery of an economic subsidy that depending on the type of municipality, ranges between \$40,000 and \$75,000 pesos per month (Bogota Distrito Capital is the only city in the country that has increased this subsidy with own resources in recent years, delivering for the year 2017 a grant \$120,000 pesos per month).

According to information from the Ministry of Labor ¹, the National Government plans to achieve universal coverage of this vulnerable population, which means a linkage close to 2 million 400 thousand older adults throughout the national territory and who meet the requirements to enter this program. As of 31 december 2013 "Colombia" develops in 1,103

¹ https://colombiamayor.co/programa_colombia_mayor.html 1 Taken from the 8 May 2017

municipalities, 3 departmental inspections and boasts more than one million 250 thousand beneficiaries in the program.

- Means of living or Livelihoods

A proxy indicator of access to "means of living" is the extent of poverty. In Colombia, in the last two decades there have been periodic measurements of monetary poverty, based on the average household per capita income compared to normative with baskets which defines the threshold of poverty and extreme poverty. The monetary poverty in old age represents a little more than one-fifth of the total population with 60 or more years of the country (22.3%), the differentials by sex and age are very small, while in extreme poverty, close to 6% in this population, it is evident that the rate is somewhat higher in the late old age (2015 Institute of Aging, based on GEIH 2013).

3) Is there information available on inequality of opportunities and outcomes experienced by older persons, in the following areas?

- Availability of, access to, and quality of, health care services

In the framework of the SGSS (General System of Social Security in Health) The causes of external consultation in the population with 60 or more years may be considered to be indicators of "access and availability of health care services". In the year 2013 in the country, the main cause of external consultation on the part of older people are the "diseases of the circulatory system" (227 out of every 100,000 older adults consult for this causes in the year referred to).

In second place are the "diseases of the musculoskeletal system and connective tissue", followed by "endocrine, nutritional and metabolic diseases" (respectively, 86 and 100 older people out of every 100,000 individuals in the same age group consult for these causes).

In fourth and fifth place are the consultations carried out by "Factors Influencing Health Status and Contact with Health Services" and the "symptoms, signs and abnormal clinical and laboratory, not elsewhere classified" (respectively, 88 and 93 older people out of every 100,000 consultations were conducted by these causes). The "diseases of the respiratory system" and the "Injury, poisoning and certain other external causes" occupy the last two places among the ten leading causes of outpatient (respectively, 61 and 34 people out of every 100,000 people older adults) consult for these causes to the SGSSS (2015 Institute of Aging, based on GEIH 2013). The order of importance of the causes of external consultation is close to the structure of morbidity, or relative importance of the different causes of disease (Institute of Aging 2015 IMLCF, based on 2014).

4) Are there areas where it is explicitly justified the differential treatment based on the old age?

The Ombudsman's Office strongly believes that for some aspects, situations or problems that elder people face in Colombia, treatment must be differentiated because of its condition, for example, have a greater availability of places of care closer to where older adults live, longer care times in different services to which they access especially in health, quick access to care and specialized treatment, preferential attention rows to cite a couple of examples.

We believe, however, that the age variable would allow a more broad-based and comprehensive approach to the different moments of the course of life, which to be crossed with other variables and aspects of the life of intersectional ² as sex, ethnicity, disability, sexual orientation and gender identity, nationality, among others would justify and guarantee the treatment.

NEGLIGENCE, VIOLENCE AND ABUSE

1) In your country, there are no specific studies or research (from government sources, non-governmental or academic) on violence, abuse and neglect experienced by older persons?

In Colombia there are studies and research produced by the academy and also by public institutions about mortality and morbidity associated with violence in older people. The studies of the national and departmental breakdown are based on two official sources, the one, the records of the IMLCF (Institute of Legal Medicine and Forensic Sciences) on mortality and morbidity associated with violence, and the other, external causes of mortality recorded in statistics that consolidates the DANE (National Administrative Department of Statistics). Also, information is available about the forced displacement caused by armed violence for people of all ages, even for older people (UARIV Care Unit and Integral Reparation of Victims)

a) What forms of violence, abuse and neglect (for example: physical, psychological, sexual, financial and others) have been registered?; What scenarios occur (for example: residential and non-residential)?; Is there information about the type of perpetrators?

² The Intersectionality is a tool for the analysis that addresses multiple discrimination and help to understand how different sets of identities impact on access to rights and opportunities. Taken from the Bulletin Women's Rights and Economic Change No. On August 9, 2004. AWID Association for Women's Rights and Development

In old age as well as in other age groups, mortality associated with violence is considerably higher in men compared to women, 81.4 and 47.8 Rates (per 100,000 older people) respectively in Colombia in the year 2014.

Among these deaths the most are the "deaths from transport accidents" (1,268 cases) considerably higher than the "homicide" (436 cases) and suicide (214 cases in the year). The vast majority of violent mortality occurs in males, with the exception of "suicide" where the number of cases in men and women is similar (Institute of Aging 2015 IMLCF, based on 2014).

b) Does the violence, abuse and neglect, particularly affects specific groups of people older adults? If so, what and how?

The incidence of "non-fatal injury" is considerably lower in old age in comparison with other age groups, for example, in the country in the year 2014 for the total population (all ages) you have a rate of 534.3 per 100,000, and in old age this magnitude is 191.1 (it should be noted that these are the cases that are truly a part of the that really occur). Among the causes of morbidity associated with interpersonal violence the "injury" have the greatest importance (4,466 cases in the year), below are the "injuries" (3,508 cases), followed by the cases of "violence" (1,656), and finally the "sexual abuse" injuries (56 cases) all these records of women. As in the case of mortality, the causes of morbidity associated with violence are considerably higher among older men (compared with older women) and in the early old age (in comparison with the late old age), with the exception of "sexual abuse" injury that is not registered in men (Institute of Aging 2015 IMLCF, based on 2014).

In Colombia in the year 2014 are recorded close to 10,000 people with 60 and more years displaced by armed violence (departures registered in the departments of the country), while the total number of internally displaced is 220,800 people). Caquetá, Chocó, Guaviare, Putumayo and Nariño are the departments with the highest expulsion of older displaced people.

3) Does the legislation of your country it refers explicitly to the violence, abuse and neglect of older persons? If not, what legislation applies to such aspects in the context of older persons?; does this legislation adequately addresses all areas of violence toward older persons?

The Colombian legislation in the field of situations of violence or abuse against older persons, set out in the Criminal Code Act 599 of 2000, Title IV Offenses against sexual liberty and integrity and sexual formation, in a general way some types or punishable acts committed against the integrity of any person. These provisions have had changes through

the Law 1236 of 2008, which established the aggravating "(...) *When the victim is a person of the third age or, reduced physical, sensory, or psychic (...)*".

In relation to other forms of violence and neglect of the elderly, the Criminal Code- Law 599 of 2000, in the Title VI- Crimes Against the Family- First Chapter of Violence-, set in a generic way the violence caused to any member of the family, setting a penalty of one (1) to three (3) years of imprisonment. These provisions have had changes through Law 882 of 2004, stating that for this offense, "(...) *the penalty is increased from one-half to three-quarters when the abuse described in the preceding article falls on a minor, a woman, an elder, a person on disability or physical, sensory, psychological or who is in a state of defenselessness (...)*". Later this same type of criminal violence, in accordance with the Law 1142 of 2007 had an increase from the (4) four sentence to (8) eight years in prison.

These provisions include measures of protection to the family that are part of the ascendants or older people, but they are not sufficient on their own to them, they are not only mistreated or are unaware of their rights in the context of family, but in others where they interact with other people, for example in the community spaces, health, recreation or by the same public officials in the processes of attention or for warranty management and restoration of their rights.

4) What legislation exists to protect older persons, specifically against financial abuse, including abuse inheritance?

In relation to the abuses on the inheritances, the Colombian Legislation stable criminal provisions, on fraudulent conduct against persons who have the right to increase the assets of a family member who dies, for example, false documents, embezzlement and dilapidation of assets, among others. These provisions are generic, do not specify that the victim is a person older than 60 years of age or older; victims should have the quality of heir or be ascendant in the inheritance order, in the absence of the children.

The Colombian Civil Code establishes provisions that regulate the hereditary vocation and the power of the people in a generic way of making a will on their property, without specifying or mention to elderly people. The procedures are generic and in respect of the granting or subscription of documents, the law only provides that the consent of the people, should be granted in full use of his mental faculties, that is to say that they are able to understand their actions.