



Open-ended Working Group on Ageing
Eleventh session

New York, 29 March–1 April 2021

Substantive inputs on the focus area “Access to justice”
**Working document submitted by the Office of the High
 Commissioner for Human Rights**
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I. Introduction

A. Background

1. The open-ended working group, established by the General Assembly through its resolution 65/182 with the purpose of strengthening the protection for the human rights of older persons, will hold its eleventh session at the United Nations Headquarters from 29 March to 1 April 2021. The substantive discussions will focus on two areas: right to work and access to the labour market; and access to justice. To that end, the Chair of the open-ended working group called for substantive inputs from Member States, national human rights institutions, non-governmental organizations and United Nations system agencies and bodies, following questionnaires prepared by the Secretariat on the two focus areas.

2. During the eleventh session, the open-ended working group will consider and discuss the contributions received, based on the working documents prepared by the Secretariat. The present document contains the analytical summary of contributions on the focus area of access to justice.

B. International human rights framework

3. Access to justice is a core element of the rule of law.¹ It is a fundamental right in itself and an essential prerequisite for the protection and promotion of all other human rights. Access to justice encompasses the right to a fair trial, including equal access to and equality before the courts, and seeking and obtaining just and timely remedies for rights violations. Guaranteeing access to justice is indispensable to democratic governance and the rule of law as well as to combat social and economic marginalization. Access to justice enables and enhances other rights such as the right to health, as it guarantees judicial and administrative protection of that right. Therefore access to justice can be understood and interpreted as a cross-cutting right, in line with other principles such as equal recognition before the law.

4. The concept of access to justice as a freestanding right or collection of freestanding rights has evolved over time in international and regional human rights frameworks. The Universal Declaration of Human Rights provides for the right to equality before the law without discrimination, equal protection under the law, the right to an effective remedy for violations of rights, the right to a fair and public hearing by an independent and impartial tribunal, and the presumption of innocence (articles 7, 8, 10 and 11). Similarly, the International Covenant on Civil and Political Rights recognizes these principles and rights in its articles 2 (1) and (3), 14 and 26. The Covenant, as interpreted by the Human Rights Committee, provides several due process guarantees for the conduct of judicial proceedings to ensure the right to a fair trial that apply to any judicial body with any legal competence.² Furthermore, the Human Rights Committee has determined that States parties are required under the Covenant to guarantee that individuals have accessible and effective remedies to assert their rights, which should be appropriately adapted so as to take into account the specific requirements of different populations.³

¹ See [General Assembly resolution 67/1](#), paras. 14 and 16.

² Human Rights Committee, General comment No. 32 on the right to equality before courts and tribunals and to a fair trial ([CCPR/C/GC/32](#)), para. 7.

³ Human Rights Committee, General comment No. 31 on the nature of the general legal obligation imposed on States parties to the Covenant ([CCPR/C/21/Rev.1/Add.13](#)), para. 15.

5. The International Covenant on Economic, Social and Cultural Rights also recognizes that everyone has the right to an effective remedy, be it judicial or administrative. The Committee on Economic, Social and Cultural Rights has determined that, should an administrative remedy be deemed appropriate, it too must be “accessible, affordable, timely and effective”.⁴ The Committee against Torture has interpreted the provision of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on redress as encompassing the concepts of effective remedy and reparation, and emphasized the importance of victim participation in achieving the ultimate objective of restoration of the dignity of the victim.⁵ The Committee on the Elimination of Discrimination against Women adopted a general recommendation on women’s access to justice in which it recognized that effective access to justice optimizes the emancipatory and transformative potential of the law. It encompasses justiciability, availability, accessibility, good quality, the provision of remedies and accountability of justice systems.⁶ The Committee on the Rights of the Child also calls for particular attention by States parties to ensure that effective, child-sensitive procedures are available to children and their representatives in accessing independent complaint procedures and courts.⁷ Similarly, the regional human rights mechanisms also enshrine the right to fair trial and an effective remedy.⁸

6. The Convention on the Rights of Persons with Disabilities is the first international human rights instrument that enshrines an explicit right to access to justice. It calls for the elimination of obstacles and barriers faced by persons with disabilities in accessing justice on an equal basis with others. Furthermore, it contains several innovations built upon previous standards developed under international human rights law. The Convention not only clarifies what access to justice means for persons with disabilities, but also upholds equal and effective participation at all stages of and in every role within the justice system as a core element of the right to access to justice. The Convention thereby expands this right beyond the notions of a fair trial and effective remedies which have been the principal features put forward by human rights instruments and their monitoring bodies.⁹

7. All these instruments, and others related to access to justice, apply equally to older persons who are entitled to the same protections and guarantees in accessing justice as others. However, none of the international human rights instruments and treaty bodies have specifically addressed the barriers facing older persons in accessing justice. The United Nations Principles for Older Persons, adopted by General Assembly resolution 46/91 in 1991, provides limited recognition of access to justice in terms of legal and social services in the context of care (Principle 12).¹⁰ The Madrid International Plan of Action on Ageing does not contain any specific commitment to strengthen access to justice by older persons, except for a few

⁴ Committee on Economic, Social and Cultural Rights, General comment No. 9 on the domestic application of the Covenant ([E/C.12/1998/24](#)), para. 9.

⁵ Committee against Torture, General comment No. 3 on the implementation of article 14 ([CAT/C/GC/3](#)), paras. 2 and 4.

⁶ Committee on the Elimination of Discrimination against Women, General recommendation No. 33 on women’s access to justice ([CEDAW/C/GC/33](#)), paras. 1 and 2.

⁷ Committee on the Rights of the Child, General comment No. 5 on general measures of implementation of the Convention on the Rights of the Child ([CRC/GC/2003/5](#)), para. 24.

⁸ African Charter on Human and Peoples’ Rights, art. 7; Convention on the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), arts. 6 and 13; American Convention on Human Rights, arts. 8 and 10.

⁹ See [A/HRC/37/25](#) and the [International Principles and Guidelines on Access to Justice for Persons with Disabilities](#).

¹⁰ Principle 12 states: “Older persons should have access to social and legal services to enhance their autonomy, protection and care”.

references in the context of violence and abuse directed at older women who lack access to legal protection.

8. At the regional level, older persons' access to justice and equal protection before the law is specifically recognized in the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa (article 4) and the Inter-American Convention on Protecting the Human Rights of Older Persons (article 31). The European Charter of Fundamental Rights stipulates that everyone is equal before the law (article 20) and includes the prohibition of age discrimination (article 21). Persons who have been subject to discrimination, including age-based discrimination, should have adequate means of legal protection as per article 47 of the Charter.

II. Analysis of submissions received

A. Challenges encountered by older persons in accessing justice and remedies

9. Inputs from all stakeholders have identified a number of challenges facing older persons in accessing justice and remedy, including: physical access; reasonable accommodation; affordability; excessive delays and backlogs in judicial processes; and impact of digitization, cultural norms and ageism. Submissions from NGOs also pointed out the scale of the problem: 71 per cent of older persons consulted by HelpAge International across 24 countries indicated that they had justice problems across a wide range of issues including disputes over land and property, difficulties in accessing public services, financial and debt problems, family disputes, violence and crime, and problems at work.

1. Physical access

10. Physical barriers impact the ability to access courts due to lack of accessible buildings, transportation, waiting/seating areas and information. Access is particularly problematic for people living in remote or rural areas as most legal services are available in cities. France acknowledged that over 1,770 courthouses and police stations have yet to be made accessible to wheelchair-users, blind or otherwise disabled people, implying that some older people might also be prevented from accessing them. Argentina indicated that older persons, especially those living in rural areas or indigenous communities, encounter geographic obstacles when they are far away from judicial jurisdictions. This situation becomes even more serious where older persons have some kind of disability. Canada also indicated that disability is more prevalent among seniors than any other age group with a disability rate of 38% for Canadians aged 65 year and older. This can lead to challenges when accessing services such as legal services. Ecuador, which is a multicultural and multi-ethnic country, highlighted the challenges faced by older persons belonging to indigenous peoples and nationalities and the lack of personnel within the judicial system who handle ancestral languages.

2. Reasonable accommodation

11. Submissions from NGOs highlighted that often court proceedings are not adapted to older people's needs and abilities and do not provide reasonable accommodation. For instance, they do not take into account the 'best time' for older persons to testify and they do not offer alternative care for people with caregiving duties so that they are free to take part in proceedings. Age-friendly practices such as the assignment of court assistants to explain court procedures and help older people reach the court and navigate in the buildings, a duty for reasonable accommodation,

the possibility for remote testimony, the training of legal staff on communicating with people with declining cognitive capacities, are unfortunately largely missing.

3. Affordability

12. Several submissions noted that financial constraints including affordability of legal services and lack of free legal assistance restricted access to justice by older persons. Many older person's income was limited to pensions which were inadequate to address the range of costs needed to access the legal system and enforce legal rights. The submission from the United Kingdom notes that, as would be common in all countries and all age groups, there is often a reluctance to take enforcement action because of the stress or financial commitment that this may entail. South Africa highlighted that poverty poses a significant barrier for older persons' access to justice, as a considerable number of them especially in rural areas are living in poverty.

4. Excessive delays in judicial processes

13. A particular barrier older persons face is the excessive delays and long period that legal processes, especially litigation, take. While this is a universal problem, for older persons this becomes a critical issue, as in many cases the lengthening of the process means that by the time the process ends they are not alive to enjoy the outcome. In Colombia, while the State has been implementing public policies and legislative reforms to combat judicial congestion that generates excessive delay in judicial processes, the State is also promoting alternative dispute resolution mechanisms that can offer a faster response to this population. In Germany, the Federal Government has introduced in 2012 a new complaints procedure against lengthy judicial proceedings, which has proved very effective. The age of the parties to the proceedings is one of the factors to be taken into account in this procedure.

5. Lack of knowledge and awareness

14. Lack of knowledge and awareness is identified as a significant challenge, both in terms of older persons who may not know about their rights and how to claim them; and for the judges and staff in the justice system, who may lack awareness and sensitivities concerning older persons and proper knowledge and training to be able to address them. The submission from Japan indicated that, for older persons seeking judicial relief, there is scarce relevant information, and the legal process is complicated. The economic and time-consuming burden of arranging attorneys and trials is also a barrier. In addition, many older people have a negative attitude towards administrative and judicial solutions to legal issues, and they often do nothing when in despair. Similarly, many submissions from States, NGOs and national human rights institutions indicated the lack of knowledge and access to information about the protection of their rights to access justice as an obstacle. The submission from Lesotho indicated that the inadequate knowledge about existing laws by older persons leads to increased dependency on their adult children/relatives who sometimes are equally ignorant about processes to accessing justice. The sensitisation programs on ageing issues, such as legal capacity and decision-making, are inadequate for justice system to be able to respond appropriately to issues related to ageing and justice.

15. The submission from the United Kingdom stated that the most likely challenge would be a lack of awareness of the availability of advisory bodies and helplines to provide advice and help support people, including older people, in resolving disputes or concerns in a shorter time than the lengthy court process. The Government endeavours to signpost sources of help as widely as possible - in doctor's offices and job centres as well as on the government web page dedicated to "Discrimination: your rights and the law". Colombia has also identified obstacles caused by the lack of

preparation and training of justice operators and institutions in general, to provide differential and adequate treatment to older persons given their vulnerability.

6. The digital divide

16. Submissions from NGOs and national human rights institutions highlighted that the digitalization of legal proceedings, including submission of claims and following cases online, coupled with the digital gap create unique disadvantages for older people. For example in Denmark, as highlighted in the submission from the Danish Institute of Human Rights, most communication between public authorities (including the justice system) and citizens is conducted through e-Boks – an online digital mailbox. This can affect older persons, although they can be exempted from e-Boks if they do not have a computer or access to internet.

7. Impact of cultural norms and traditions

17. The impact of cultural norms on access to justice by older persons, particularly older women, was highlighted in several submissions. For example, older persons are often reluctant to resort to the legal system to resolve disputes because of honour and shame associated with such actions, particularly when it comes to family matters such as inheritance of properties, as well as violence and abuse. Many older persons have a negative attitude towards administrative and judicial solutions to legal issues, and they often do nothing when in despair. They also face challenges in bringing complaints against their children under whose care they remain.

8. Impact of ageism

18. Finally, submissions have highlighted that, while they may be laws and policies in place to guarantee access to justice for all, few of them specifically address particular challenges faced by older persons and their practical implementation is lagging behind. For example, Uruguay indicated that there are no specific measures have been taken for older persons, given that the negative conception of old age crosses the entire judicial system and results in a naturalization of the injustices and vulnerabilities suffered by the elderly. The judicial procedures do not consider the specific needs of older persons, which translates into their lack of accessibility to the judicial system in all areas.

19. Submissions from national human rights institutions and NGOs also pointed out that national legislation and state policy documents do not consider the specific needs of older persons in terms of access to justice, nor specifically address discrimination based on age or provide reasonable accommodation to ensure their effective access to and participation in all legal and administrative proceedings, for example expediting proceedings, making existing facilities and services accessible, and providing specific support. Several submissions from NGOs also pointed out that entrenched ageism exists within the justice system and that the laws and policies themselves can be ageist. It is important to ensure that access to judicial and non-judicial proceedings and their outcomes that are not influenced at any stage by ageist stereotypes.

B. National legal and policy framework

20. Most respondents described the general guarantee under the Constitution for equality before the law and access to justice for all citizens regardless of age. While specific reference to older persons in Constitutions is rare, such examples are found, among others, in: the Constitution of Jordan which protects people of older age from abuse and exploitation; the Constitution of Kenya which in its article 57 ordains the

State to take measures to ensure the rights of older persons; and the Constitution of Kyrgyzstan which specifies age as a prohibited ground for discrimination. Several countries referred to the Inter-American Convention on Protecting the Human Rights of Older Persons that they ratified and its specific provision on access to justice form a part of national legal framework.

21. Several countries indicated the existence of legislation specifying age as a prohibited ground of discrimination and the availability of legal remedies. Lesotho indicated that its Policy for Older Persons (2014) provides for access to justice by older persons. In the United Kingdom, The Equality Act 2010 provides protection against direct and indirect age discrimination, making it unlawful to discriminate against older people. The Act provides legal remedy for older people who may have been discriminated against to make a claim through the court or Employment Tribunal.

22. Alongside the formal judicial mechanism to seek redress through courts, respondents indicated national human rights commissions, ombudsman or tribunals established under the legislation as means of enforcing human rights, guaranteeing access to justice and remedies as well as comprehensive legal assistance.

23. Other non-judicial mechanisms referred to by respondents include amicable settlement outside of court, such as mediation, arbitration, and Public Defender's service, which are available for everyone, including older persons. In addition, administrative appeals are another non-judicial tool, which allows older persons to exercise their rights through the administrative quasi-judiciary proceedings. One respondent noted that customary courts and tribunals dispensing justice are currently not regulated by law.

C. Availability

24. Responses from States indicated policies and measures put in place to ensure the availability of judicial and non-judicial mechanisms for older persons through networks of courts and legal aid services at regional and local levels, including in rural areas. Many responses indicated the existence of community justice centers that older persons can avail themselves, which provide alternative dispute settlement mechanism.

25. In Argentina, the Centres for Access to Justice located all over the country provide primary and comprehensive legal assistance services to vulnerable populations. Each Centre is made up of an interdisciplinary team of lawyers, psychologists, social workers, community mediators and administrative staff who have been trained to provide comprehensive assistance to meet the legal needs of the community.

26. In Colombia, under the National Program of Civil Coexistence Centers and Houses of Justice, older people have access to information centers that provide guidance and provision of alternative conflict resolution mechanisms. The Houses of Justice are located in both urban centers and remote areas, to guarantee easy access for older persons with mobility difficulties.

27. In Canada, online dispute resolution platforms, such as SmallClaimsBC established by the Justice Education Society in the province of British Columbia, provide people in dispute with tools to help them settle online, without going to court. These platforms may be of particular assistance to older persons, including those facing mobility challenges.

28. In Dominican Republic, under the SECARE (Services, Training and Recreation) Programme at senior integral care centers available nationwide, older persons can

access mediation support for conflicts or controversies at the Mediation Community Centres and the Community Justice Houses. In France, social workers employed in municipal centers for social action provide administrative help for older persons in the form of mediation and conciliation.

29. In Malaysia, in addition to courts now operating in most major cities and towns, the Judiciary has set up mobile courts to provide better access to justice for people in more remote areas of the country. Administrative tribunals e.g. the Consumer Protection Tribunal and the Industrial Court, which are less formal and less adversarial but aim to provide redress in more specific areas of law, have also been widely set up around the country to enable better access to justice and dispute resolution for people of all ages.

D. Accessibility

1. Physical accessibility

30. Responses indicated various initiatives taken on physical accessibility - from making the court building barrier free, to having 'mobile courts' to bring court close to the community in order to diminish the time and money.

31. Several submissions from States indicated laws and regulations that require court buildings are made barrier-free and equipped with horizontal tracks, staircases and parallel ramps or lifts. However some respondents pointed out that, although new court buildings are barrier-free according to law, this may not be the case for older court buildings. In addition, lawyer's offices and legal aid service centres may not offer easy physical access. Inputs from NGOs noted that in some cases judicial infrastructure such as registries and courts needed better resourcing to address budgetary constraints that had impacted on necessary modifications that were needed to ensure accessibility.

32. In Canada, the Accessible Canada Act (ACA) addresses age-related concerns faced by persons with disabilities in Canada's federal sector through the development of regulations to remove accessibility barriers across the federal sector for persons with disabilities. These regulations could target areas such as employment, the built environment, information and communication technologies, the procurement of goods, services, and facilities, the design and delivery of programs and services, transportations, and other areas designated by regulation.

33. To ensure that justice systems are safe, affordable and physically accessible to all people, including older persons, Colombia has implemented programs for decentralization of services and legal advice, such as the " National Program of Civil Coexistence Centers and Houses of Justice " and the "mobile booths for orientation, legal advice and administrative proceedings" that have been developed by several public entities. These initiatives were developed to bring justice to all people, eliminating physical and geographical barriers between State entities and citizens.

34. A number of submissions by NGOs described a range of circumstances in which older persons were completely unable to access justice because of their physical living conditions, geographic location or lack of mobility and independence. In these cases, older persons were also unable to make contact by other means such as by telephone or online means because of restriction of their daily activities, restrictions on their autonomy and efforts to ensure they did not have access to legal assistance and legal systems that might call their living conditions into question.

35. The response from the Czech Republic indicated that, if older persons have problems with communication before courts, they have the right to the free assistance of an interpreter. Submissions from national human rights institutions indicated that

communication aids such as interpreters and devices to assist older and disabled persons, though available, are still insufficient. There is also a need to raise awareness among court officers and staff about the rights of older persons with disabilities, develop necessary guidelines, and train court staff in effectively communicating with older persons with disabilities, enhancing physical accessibility and providing all courts with wheelchairs.

36. Several States reported that the justice system and processes are increasingly being digitalized to offer easier access to information and processes online. In Poland, the progressive digitalization of the justice system consists of the implementation of systems such as: electronic protocol, e-court, access to information from the National Register of Pledges and the Land and Mortgage Register Database, electronic writ of payment proceedings, court information portals and court websites, which enable conducting certain procedural activities and obtaining information on the status of a case by electronic means, without the need to appear in court in person. However, it is also acknowledged that older persons must have necessary skills and access to a specific computer system. In the Russian Federation, in order to expand access to justice, the judicial system is actively introducing modern electronic means and technologies: video conferencing, video recording, electronic filing of documents, which interaction with courts through electronic document management.

37. The greater use of and requirements for the information and communication technology (ICT) and online access was identified by many NGOs as a barrier for older persons to accessing justice. This included older persons' ICT literacy and skills issues, their access to computers and the internet. Many older persons without access are reliant on older library systems that often contain out of date or inaccurate legal information. Web conferencing was seen to an opportunity to engage with legal processes where older persons have access to relevant systems and equipment.

38. Recognizing the varying needs and capacities of users in accessing courts and services, Her Majesty's Courts and Tribunal Services (HMCTS) of the United Kingdom supports all users in a variety of ways to access their services. Reforms of the system will increase access to justice through the digital delivery and subsequent digital take up of services, assisted digital support, improved paper channels and support for users over the phone, webchat and face-to-face support for those who need digital assistance. In order to ensure access for all. The principal aim of new digital services is to add new routes to justice, not to take others away. In order to ensure access for all, HMCTS is not mandating digital channels and will be improving its paper channels in tandem with new digital services.

39. Furthermore, as accessibility starts at the design phase, there is a need to have good understanding of the specific needs of vulnerable and excluded groups of users. Towards this end, HMCTS is receiving support from a specialist organisation, Revolving Doors, with whom it has engaged with a wide range of individuals including people with low digital literacy skills, disabilities (including mental health conditions), English as a second language, and repeated contact with the criminal justice system. It has also sought detailed advice at each stage of design from external organisations such as the Personal Support Unit, Disability Rights UK and AGE UK.

2. Affordability

40. Submissions from NGOs noted that financial constraints including affordability restricted access to justice. Many older person's income was limited to pensions which were inadequate to address the range of costs needed to access the legal system and enforce legal rights. Responses from States (France, Georgia, Poland and Sweden) indicated that policies and programmes providing free legal aid or subsidizing legal expenses are generally based on income and not necessarily age-

specific, but older people vastly benefit from such programmes as their income tends to be lower than that of working people. In Kenya, the National Legal Aid and Awareness Programme facilitates access to justice for those who cannot afford legal representation. France indicated that older persons can also access the justice system through their insurance with an optional legal expenses coverage.

3. Legal assistance

41. Legal aid programmes are a central component of strategies to enhance access to justice for older persons. One of the major obstacles in accessing justice is the cost of legal advice and representation. The majority of responses from States indicated no specific provisions for older person's access to legal aid but the general guarantee and availability of free advice and representation to people with low income to guarantee their access to justice for all people. In Canada, the Government provides financial assistance to provincial and territorial legal aid agencies that provide legal aid services for economically disadvantaged persons, including older persons, involved in criminal and civil matters. The Russian Federation indicated that senior citizens are exempted from paying fees not only when filing a lawsuit, but also at all stages of the consideration of the case. The Czech Republic, Japan and Poland indicated that, in the case of older persons with mental or intellectual disability and limited legal capacity, specific measures are established by law that include assistance in decision-making, representation by a family member and guardianship system appointed by court. Costa Rica acknowledged that the lack of special legislation that guarantees free legal assistance in all matters, in administrative and judicial headquarters, as a key obstacle for older persons' exercise of their right of access to justice.

42. Few inputs from NGOs indicated specific guarantees of or programs for the provision of legal assistance for older persons. Principal sources of legal assistance included provision of free legal assistance through legal aid programs and grants or through pro bono input from the private legal profession. Other examples described the use of law schools and volunteer paralegals to provide access to legal information, advice and representation.

43. Submissions from NGOs also highlighted examples of prioritizing legal assistance to older persons through quotas or targets. There was an increased interest in elder law as a practice area as a means of encouraging greater number of lawyers to engage with older person's access to justice, particularly given the increasing complexity of the issues, laws and policies. Some free legal assistance providers do give advice on areas such as social security and social protections, which impacts significantly on older persons.

E. Equality and non-discrimination

44. Equality and non-discrimination are fundamental principles of human rights law, that provide guarantee that individuals should not be subject to differential treatment on the basis of an individual or group characteristic, including old age. Respondents provided information on legal provisions and policy adopted to ensure effective access to justice for older persons on an equal basis with others, including by integrating age perspectives in the justice system and adopting age-appropriate procedures in all administrative and legal proceedings. Some countries, like Costa Rica and Ecuador, have adopted specific law on the right to preferential care for older persons and instituted staff awareness raising programmes. Some of these laws have also provisions to expedite proceedings if older persons are the subject.

45. In Argentina, various judicial system organizations are taking measures aimed at strengthening the protection of the rights of older persons and their access to justice on an equal footing in order to comply with the provisions of the Inter-American Convention on Protecting the Human Rights of Older Persons. For Uruguay, even though the Inter-American Convention and the Madrid Plan of Action on Ageing established measures to generate equitable access to justice for older persons, the judicial system still needs to modify its procedures so that they are adapted to older persons. Prevalent negative perception of ageing in many institutions presents an obstacle for the implementation of the Inter-American Convention that needs to be overcome.

46. In France, the Departmental Council on Citizenship and Autonomy and the High Council on Families, Children and Senior Citizens create a network on a local and national level, providing an effective institutional framework advising policy-makers. In Lesotho, the Policy for Older Persons 2014 commits to protecting and upholding the fundamental rights of older persons as outlined in the constitution of Lesotho and in accordance with the United Nations Principles for Older Persons (General Assembly resolution 46/91 adopted in December 1991). The Policy also commits to ensuring that all local leaders, traditional leaders, community council members, public officials, school teachers, health workers and church clergy are sensitized to the needs of older persons and the development of mechanisms to facilitate older persons' access to justice.

47. Several respondents outlined existing public policies and awareness-raising and capacity building programmes established for all justice system personnel to address the negative impacts of ageism and age discrimination in justice system. In Argentina, justice system institutions, the Public Defender's Office, the Ministry of Justice and the Public Prosecutor's Office of the City of Buenos Aires have prepared the "Protocol for Access to Justice for Persons with Disabilities: Proposals for Proper Treatment". Considering that a high percentage of individuals with disabilities are older persons, this instrument is worth mentioning as it contains proposals and recommendations on the proper treatment that persons with disabilities must receive and is intended for providers of justice services. Within this framework, awareness-raising and training workshops were organized.

48. In Costa Rica, the judiciary has adopted an institutional policy to guarantee adequate access to justice for older persons which is aimed at adapting the services taking into consideration the particular needs of older persons. It has also developed a virtual course on access to justice, which covers older persons. Other countries, such as Colombia and the Czech Republic, have also developed training and awareness raising programme on access to justice for older persons as part of the judicial academy providing training programmes for judges and judicial staff, although some of them are optional and not a requirement.

49. Several submissions highlighted the role of independent national human rights institutions and equality bodies in providing individual assistance, effective monitoring and enforcement of equality law, contributing to the prevention of discrimination and to the developing of national and European jurisprudence, and promoting awareness raising.

50. The European Union Fundamental Rights Agency issued, in June 2018, a Fundamental Rights Report 2018 Focus - Shifting perceptions: towards a rights-based approach to ageing. The focus explores the shift from thinking about old age in terms of 'deficits' that create 'needs' to a more comprehensive one encompassing a 'rights-based' approach towards ageing. This gradually evolving paradigm shift strives to respect the fundamental right to equal treatment of all individuals, regardless of age – without neglecting protecting and providing support to those who need it.

F. Accountability

51. Respondents indicated the Constitutional guarantee for the impartiality and independence of justice and described oversight mechanisms established, such as ombudsperson, disciplinary court and others, to ensure the independence and impartiality of judges, although most of them are not specific to older persons but open to all persons. National human rights institutions or national body on older persons are also established with a mandate to monitor and receive complaints about the violation of the rights of older persons, including in the justice systems and processes. Some States indicated the existence of regional mechanisms such as the Court of Justice of the European Union and the European Court of Human Rights.

G. Promising practices

52. Several respondents provided examples of promising practices to address many of the challenges faced by older persons in access to justice as mentioned earlier, including: awareness raising; courts giving priority to older persons to expedite proceedings; provision of free legal assistance; mobile courts and community law centres in remote areas; and use of hotlines for older persons.

53. In Argentina, the national human rights institution Defensoría del Pueblo has been implementing the Programme on Health, Disability and Older Persons since 2012, which is aimed at protecting the human rights of older persons and persons with disabilities, and addressing obstacles they face in access to justice. Among the activities implemented under the Programme is the development of strategies and projects of cooperation and coordination in order to offer a comprehensive range of services that address the violation of the rights of persons with disabilities and older persons including their right to health.

54. In Canada, some legal aid plans and other (both publicly and privately-funded) bodies have developed specialized services for economically-disadvantaged older persons. For example, Legal Aid Ontario supports the Advocacy Centre for the Elderly, a community based legal clinic that assists low income senior citizens with a variety of legal issues. Pro Bono Ontario has specialized services, such as a toll-free, province-wide advice line, a Simple Wills Program and Power of Attorney service, and court-based programs to help predatory lending victims. In British Columbia, the Law Foundation of BC-funded Seniors First BC provides services to people age 55 and over, who are not able to access legal help elsewhere due to low income or other barriers. The clinic can provide legal advice and representation for residential tenancy/housing, debt, pensions and benefits, abuse/neglect, financial exploitation, and other matters.

55. Japan's Federation of Bar Associations has set up law firms to provide access to lawyers in low-population areas. There are 22 locations as of 2019. The Federation has established "Support centers for older persons and persons with disabilities" in all prefectures, which provide legal consultation, including telephone and outreach services.

56. Several NGOs including the Japan Pensioner's Union, are engaged in legal assistance to older persons in filing legal claims for social services. At present, a number of trials have occurred over the illegality of lowering old-age pensions, and the Japan pensioner's union is helping older persons plaintiffs.

57. In India, good practices includes programs creating awareness about legal rights of older persons through various media, assisting older persons in getting justice by

providing free transportation facility, use of volunteers and NGOs in facilitating access, providing free legal advice, prioritizing their hearing in courts. A number of submissions by NGOs reported examples of courts in several countries giving priority to the hearing of cases involving older persons with a view to expeditious disposal.

58. Other examples reported include provision of free legal services, both generally and those specializing in older person's rights, as well as reduced fees and costs involved which made access to justice more affordable and accessible for older persons. This included schemes that paid fees for a range of access to justice related issues including lawyer's fees, court filing fees, transcription fees, appeal fees, certification and document fees, printing, photocopying, interpreting and translation fees, costs of transport to and from court and any other expenses such as witness and service of process expenses and all other charges payable or incurred in connection with any legal proceedings. In Serbia, the Law on Free of Charge Legal Assistance ("Official gazette", No. 87/2018) developed stipulates eligibility for legal assistance provided free of charge and includes different types: legal advice, assistance in writing official documents, representation in court. The law stipulates eligible parties and explicitly mentions older persons admitted into residential care without their consent.

59. The use of law student clinics, paralegal workers and volunteer intermediaries was observed to provide opportunities for access to justice in places such as regional and rural areas. In some cases, intergenerational models had young people providing services to older persons. This also included work in areas that uphold older person's adequate standard of living by working such as social protections and social security, tenancy and consumer issues. The use of non-legal professionals such as social workers was commonly suggested as necessary element of dealing with older person's legal needs. Ensuring social workers were readily available in well promoted access points was considered a good practice in countries such as Italy.

60. Tanzania noted the development of mobile courts allowed older persons to seek justice in their own communities and that Legal Aid support services had become available to older persons. In Nigeria, Jigawa State Government established nine Community Law Centres pursuant to the Justice Sector Reform Commission Law of 2005. These centres serve as avenues for providing free legal and mediation services to the poor in the State.

III. Conclusions

61. The submissions from all stakeholders indicated that access to justice impacts upon the exercise of all human rights by older persons, and vice versa. While access to justice is generally recognized in national laws and policies, often they are not necessarily specific to older persons' needs and situations. Submissions have also highlighted several promising practices and many efforts taken by States and other stakeholders in facilitating older persons' access to justice. Many of them acknowledged specific challenges faced by older persons, including the entrenched ageism in public policies and attitudes and the justice sector is no exception.

62. Deliberations under the Open-ended Working Group at its eleventh session should lead to further discussion and identification of normative elements related to access to justice as an integral part of the human rights of older persons, to be considered further in its twelfth session in 2022.