



HelpAge International Submission on Access to Justice

11th Working Session of the Open-ended Working Group on Ageing, 2020

Introduction

Older people must be part of the growing discussion on their human rights. To this end, in July 2019 HelpAge International consulted 198 older women and 108 older men across 24 countries¹ on the rights to be discussed at the 11th Session of the UN OEWG. This submission presents the issues they raised and uses their own words. Participants were self-selecting, so their responses are not a representative sample of older people.

A significant justice gap

A significant proportion of older people are not getting justice. Seventy-one per cent of older people in this consultation said they had justice problems they wanted a solution to. More than half of these, 53 per cent, had not got justice.

Older people have a wide variety of justice problems they want solutions to. The most common justice problems faced by participants were disputes over land or property (29 per cent), followed by difficulties in accessing public services they were entitled to (19 per cent). Next were problems with money and debt, or as a consumer (14 per cent), family disputes, such as divorce and inheritance (13 per cent), violence and crime (9 per cent), and problems at work, such as being unfairly dismissed (8 per cent). Other justice problems reported included accident insurance claims, housing issues and scams.

Question 5: Specific challenges in accessing justice

Non-discrimination: Some older people in the consultation said negative attitudes towards their older age was a barrier to getting justice.

“The concept of justice is for everyone but oftentimes cultural bias favours the young and the strong over the weak and the worn.”

71-year-old man, Philippines

Some said they had less chance of getting justice and having their rights respected because they were older. They said older people were not listened to, valued or respected. Some spoke about being treated with disrespect by court officials or being harassed by the police. They said the legal system was not friendly to older people, including paying less in damages because they were older.

¹ Argentina, Cambodia, Chile, Egypt, India, Jordan, Kenya, Kyrgyzstan, Lebanon, Mauritius, Moldova, Myanmar, Nepal, Palestine, Peru, Philippines, Republic of Korea, Russian Federation, Rwanda, Serbia, Slovenia, Spain, Tanzania, Uganda

“I was paid less compensation because of my age and because I was not working anymore. It didn’t seem fair to me.”
69-year-old woman, Spain

Some participants who had not found a solution to their justice problem said their case was still pending. Some thought the length of the court case was too long. Some felt proceedings were deliberately drawn out to wear them out or in the hope they would die before the case was resolved.

“The insurance company refused to pay because, according to them, my lawyer was asking for too much money for a very old person. I’m still waiting for the judgement. I believe they have spun out this procedure for two years, hoping that I could die before [it’s resolved].”
65-year-old man, Rwanda

Others had given up fighting their case because they felt they were getting nowhere, or because they lacked the strength to pursue the claim or did not have long to live.

“Let’s be realistic, I don’t have many years to live as an older person, so it’s not worth losing siblings over land. Though if I was young, I would definitely fight for my inheritance.”
60-year-old woman, Jordan

Economic access: The financial cost is a major barrier for older people trying to access justice. Some said the costs were too high for an older person with limited income. Some had no money to pay lawyers. Others said they could not pay corrupt officials and other costs involved, for example, transport or paperwork.

“The difficulties I encountered were bureaucratic and financial. A lot of documents and certificates were issued and the costs were around 7,000 lei [393US\$]. This amount is my pension for seven months.”
60-year-old woman, Moldova

Physical access: Some said there was no local court to go to. Others found the legal or complaints system inaccessible because they did not have the computer skills to access information or documents online, or because the system did not accommodate their particular needs.

“The court sessions are long and the place is crowded. It’s difficult for someone as old as me to wait a long time in the courtroom when my health condition doesn’t allow it.”
69-year-old man, Egypt

Some said they had no legal support when making complaints, did not know their rights or that their lack of education meant they could not follow court proceedings.

“It was very hard for me entering a court and telling the police what my son had done, as I’m not literate.”
62-year-old woman, Cambodia

International legal framework

The unique barriers older people face to their right to access to justice are not adequately covered under international human rights law. Dedicated standards within a UN convention on the rights of older persons are necessary to ensure that older people have the right to access to justice without discrimination and on an equal basis with others. This includes the right to

- 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
- Access to justice entities and related emergency and support services, for example when they are the victims of crime or a denial of their rights, in whatever setting they live
- Access to alternative, non-judicial pathways to justice, such as one-stop community justice centres, paralegal support, or ombuds procedures.
- Timely proceedings and remedies
- Access to judicial and non-judicial proceedings that are not influenced at any stage by ageist stereotypes
- Freedom from discrimination on the basis of age in the award of damages.