

Guiding Questions for Focus Area: Access to Justice

National legal framework

1. How is the access to justice by older persons guaranteed under the national legal and policy framework? What judicial and non-judicial mechanisms are in place for all older persons to complain and seek redress for denial of their rights?

(i) The following fundamental rights and freedoms are entrenched in Chapter Two of the Constitution of Mauritius. All citizens, including older people, enjoy these rights:

- the right to life;
- the right to personal liberty;
- the right to freedom from slavery and forced labour;
- the right to freedom from torture, inhuman or degrading treatment or punishment;
- the right to protection against deprivation of property;
- the right to privacy of the home and other property;
- the right to protection of the law [due process guarantees];
- the right to freedom of conscience;
- the right to freedom of expression;
- the right to freedom of assembly and association;
- the right to establish and maintain schools at one's own expense;
- the right to freedom of movement;
- the right to freedom from discrimination

(ii) The Residential Care Homes Act

(iii) The National Pensions Act

(iv) Older persons may apply for legal aid under the Legal Aid Act. Legal aid is available to persons whose total monthly income is less than Rs 10,000 and who are not worth Rs 500,000 apart from their wearing apparel and tools of trade and the subject matter of the proceedings. Application in writing must be made to the court in question stating the cause of action or ground of defence or appeal, or the nature of the extra-judicial matter in respect of which the application is made.

(v) The Senior Citizens Council

(vi) The Equal Opportunities Act established the Equal Opportunities Commission and the Equal Opportunities Tribunal

(vii) The Protection of Elderly Persons Act- the objective of the Act is to set up a legal and administrative framework to ensure that adequate protection and assistance are made available to elderly persons in Mauritius and Rodrigues. The Act makes provision for the creation of the following institutional mechanisms, set up within the Ministry of Social Security National Solidarity Senior Citizens Welfare & Reform Institutions, to, inter-alia, ensure, promote and sustain the physical, physical, emotional, social, cultural and economic protection of elderly persons: -

1. A Protection of the Elderly Network with the objective to
 - (a) ensure, promote and sustain the physical, psychological, emotional, social and economic protection of elderly persons;
 - (b) ensure, promote and sustain the well-being of elderly persons so that they are able to play a meaningful part in society.

2. A Monitoring Committee for the Elderly with the functions to -
 - (a) supervise the operations of the Unit and of every Elderly Watch and give to its officers such directions of a general character as it may deem necessary;
 - (b) provide adequate resources and facilities for the proper operation of the Unit and of every Elderly Watch.

3. An Elderly Person's Protection Unit with the functions to
 - (a) organize public awareness and sensitisation campaigns on the rights of elderly persons and the need to provide them with assistance and protection;
 - (b) receive complaints from elderly persons who are in need of protection or assistance and take such measures as may be necessary;
 - (c) apply to the Court for a protection order where it deems it necessary in circumstances where there is a real danger to, or threat on, the life of an elderly person;
 - (d) assist in arranging for the admission of an elderly person to a residential care home, where required;
 - (e) ensure that every Elderly Watch and other appropriate bodies or authorities get a proper feedback on the situation of elderly persons who are, or may be, in need of protection or assistance.

Availability

- 2. What steps have been taken to ensure the availability of judicial and non-judicial mechanisms for older persons in urban, rural and remote areas in your country? Are there alternative dispute settlement mechanisms available?**

An Elderly Watch for different regions of Mauritius with the objectives to

- (a) promote the welfare of elderly persons in the region for which it is responsible;
- (b) provide support to families that need assistance and protection for elderly persons;
- (c) endeavour to prevent acts of abuse on elderly persons;
- (d) report cases of repeated abuse of an elderly person to an officer of the Unit.

Accessibility

- 3. What steps have been taken to ensure that all justice systems (judicial and non-judicial) are secure, affordable and physically accessible for older persons and adapted to their needs?**

The Building Control Act addresses issues of physical accessibility to buildings.

“Every building shall be designed, constructed and maintained in such a way as to guarantee people’s safety, society’s well-being, the protection of the environment, and aesthetic value, and satisfy the following –

(ii) accessibility, to ensure that persons with impaired mobility and communication, elderly persons and pregnant women are able to access and use the building and the facilities within the building comfortably;”

Free transport facilities
Legal aid assistance at the Supreme Court

4. What are the existing provisions to guarantee legal assistance for older persons?

The Legal Aid Act
Police stations across the island
The Family Welfare and Protection Unit operates through a network of six Family Support Bureau around the Island and provide services of legal counselling.
Elderly Persons’ Protection Unit
Elderly Watch

5. What are specific challenges encountered by older persons in accessing justice and remedy in your country?

Lack of funds
Poor mobility
Ignorance of existing facilities and laws

6. What good practices are available in terms of ensuring equal and effective access to justice and remedy for older persons?

Legal Aid Act
Legal Advice

Equality and non-discrimination

7. What are the provisions adopted to ensure effective access to justice for older persons on an equal basis with others, including age-appropriate procedures in all administrative and legal proceedings?

Legal Aid Assistance

8. Please specify 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.

Training and awareness campaigns are conducted by the National Human Rights Commission (NHRC). In November 2017, a three-year project was funded by the European Union (EU) entitled “Promotion of Respect for Human Rights in Mauritius and Rodrigues.

The Equal Opportunities Commission (EOC) conduct training and awareness campaigns.

As per Section 27(3) of the Equal Opportunities Act 2008, the duties of the Commission are as follows:

- work towards the elimination of discrimination, and the promotion of equality of opportunity and good relations between persons of different status;
- keep under review the working of the Equal Opportunities Act and any relevant law and submit to the Attorney-General proposals for amending them, if required;
- of its own motion or following a complaint, carry out an investigation;
- attempt to reconcile the parties to whom and against whom a complaint relates;
- conduct and foster research and educational and other programmes for the purpose of eliminating discrimination and promoting equality of opportunity and good relations between persons of different status; and
- prepare appropriate guidelines and codes for the avoidance of discrimination and take all necessary measures to ensure that the guidelines and codes are brought to the attention of employers and the public at large.

Accountability

- 9. How do you ensure justice systems function in accordance with the principles of independence and impartiality? Please specify if there is any oversight mechanism in place to address any discrimination against older persons committed by justice system professionals.**

The Equal Opportunities Commission addresses any discrimination against older persons by justice system professionals.

