

Dominican Republic inputs

Focus Areas of the Ninth Session of the IX Session of the Open Ended Working Group on Aging

I. Autonomy and Independence

In the Dominican Republic, there are several legal instruments that protect the general and specific rights of older persons. For its part, the Dominican Constitution establishes the responsibility of the family, the society and the State for the protection and assistance of older persons and for the promotion of their integration into active and community life [\[1\]](#). Likewise, Law 352-98 on Protection of the Older Persons establishes the fundamental rights of older persons.

The right to autonomy and independence of older persons is a fundamental principle for this population sector to fully enjoy their life, and for these to be guaranteed other rights must be conjugated. In this regard, Law 352-98 on the Protection of Older Persons, establishes various rights that reaffirm the autonomy and independence of older persons. First of all we can mention the right of older person to remain in his family nucleus [\[2\]](#). Their family must provide the necessary care and make their stay as pleasant as possible. Likewise, it establishes that "when suffering from any serious physical or mental illness is entitled to special protection, so that he or she has easy access to health services" taking all the "essential actions for the prevention and treatment of diseases" [\[3\]](#).

Other rights guaranteed are free and easy access to public and private services [\[4\]](#). The right to work, with equal opportunities and all the guarantees that labor laws grant in this regard, without any discrimination [\[5\]](#). The right to be part of or form any association and to participate widely in the community and national public life [\[6\]](#). Likewise, the right to employment and income generation is connoted as a resource to increase the independence of older persons, by establishing that "a minimum level of resources must be ensured in order to satisfy the essential needs of older persons and expand their independence" [\[7\]](#).

As noted above, to fully ensure the enjoyment of the right to autonomy and independence of older persons, other rights should be taken into account, such as the right to prior and informed consent, and the right to work and to generate income, the right to education, culture and recreation, as well as the right to security, respect and dignity.

Among the main problems and challenges faced by older persons in the country regarding autonomy and independence it can be mentioned that discrimination by age is a scourge that undermines the dignity of older persons and which consequences even put their lives at risk or their probability of survival in the face of illness, dependence or a catastrophic event. Society has naturalized behaviors and practices towards older people that are contrary to the inherent dignity of the human being. It also generate specific threats that are very important for the rights of the older population, whether it is limited access to health care, employment, property and inheritance rights, access to information and education, the right to housing and transportation, or equal access to resources for the satisfaction of basic needs.

They also face particular threats to their rights from different forms of violence and abuse, including limited access to justice and equality before the law. Older women and men experience violence at the family, community and institutional level. On the other hand, people with disabilities, those belonging to

ethnic minorities, refugees, stateless people or detainees face enormous discrimination and exclusion due to age in other countries of the region.

Other aspects are: 1) the legal framework and regulatory frameworks on the issue; 2) regularization of care issues; 3) challenges towards disability; 4) the participation limitation of older persons in society; 5) the pursuit and abuse in old age, and 6) the substantial gaps in guaranteeing the rights such as: social security, health and adequate standard of living.

People age 80 and over are particularly at risk of social exclusion, loneliness and abandonment due to various diseases and physical and mental limitations, such as blindness, hearing loss and other diseases such as dementia and Alzheimer's. Older people with disabilities who live in rural or remote areas face a real threat to meet their daily needs for medication, food and assistance [\[8\]](#) .

Currently there are no studies that properly measure the lack of guarantee of the right to autonomy and independence of older persons, but institutional statistics are available in regards to violations of other rights that correlate with this. As part of the measures being taken by CONAPE to guarantee that older persons enjoy their rights to autonomy and independence, is to incorporate social inclusion and awareness creation in all its programs with a focus on policies for the protection and promotion the human rights of older persons, which have allowed the structuring and designing of programs in favor of preserving the autonomy and independence of older persons. Such as domiciliary visits programs, where a care system with a preventive, progressive, coordinated and integrated model, is set based on a social health system that includes a range of service options, according to the assessment of the older person profile and their environment, providing the following services:

1. Offer services to promote personal autonomy and prevention of dependency situations, trying to avoid or delay institutionalization, in order to achieve active and healthy aging as recommended by the normative framework of the rights of older adults. Recipients: Adults with low or moderate dependency.
2. The attention and care of situations of dependency in its different levels, supporting older persons and their family caregivers; Recipients: Adults with moderate or high dependency and family caregivers.
3. Offer resources or formal attention services that positively influence some of the dimensions that cause health problems of family caregivers originated in the care function itself, giving relief and support; as well as eliminate obstacles for their personal and professional development that is limited by the dedication in time and effort of this activity. Recipients: family caregivers.
4. Professionalize care services. Recipients: paid caregivers, most of whom are women, middle-aged, with a low level of education, performing a type of work that is socially devalued, poorly paid and with little coverage of rights; family caregivers are familiar, and directly or indirectly older persons receiving care.

Under these concepts, the intervention mechanisms of qualified personnel and their families are established in order to preserve independence of older persons.

In order for the older person to obtain due reparation for the denial of the right to autonomy and independence , it is necessary to consecrate this right directly as a fundamental right, in the understanding that its guarantee will allow the enjoyment of other basic rights and necessary in the life of a person, to guarantee quality of life. Likewise, it is necessary to empower society on the existing fundamental rights of older persons, and establish a regime of consequences for the national instruments of regulatory framework in the subject, which guarantees full compliance with these rights.

On the other hand, it is necessary that non-state actors such as the family and civil society play their role in respecting and protecting this right, as established by the Constitution in Article 57. The family, mainly, plays a very important role and has a transcendental responsibility in the care of older persons and their role in society, since they foster autonomy or dependence as the treatment and care that they provide to their older persons, therefore, they have the responsibility of ensuring permanence in the family nucleus of the older person and guaranteeing access to services aimed at this population.

II. Long term care and palliative care

There is no a proper definition of long-term care, however, it is defined the concept of institutionalized older person as "the person who attends a nursing home or a day center, understood as a nursing home, a care center for those individuals who lack economic and family resources or who, due to special situations, cannot remain in it, for which in those places comprehensive attention is given to them twenty-four hours a day. By day center, it means the institution that provides comprehensive care only during the day" [\[9\]](#).

Seen as a more comprehensive approach than from the strictly pathological point of view and taking into account the interdependence of physical, mental, social and environmental factors, Article 20 of Law 352-98 on the Protection of Older Persons on the right to health and nutrition of older persons, sets the "duty of the Ministry of Public Health and Social Assistance (SESPAS), the Dominican Institute of Social Security (IDSS), the State and private universities, the other governmental and non-governmental organizations, the community and the family, to take actions to compensate the lack of capacities, reactivate the remaining functions, relieve the pain, maintain physical and mental functionality and ensure the well-being and dignity of older persons, and among others, to assure that health care allows the participation of the entire health and social sector and families in the improvement of the quality of life of older persons.

Currently this assistance is provided through the Care Centers for Older Persons (permanent or long stay), which are the public, private and / or non-profit associations, where the SECARE program (service, training and recreation) is developed, offering direct care services to older persons permanently (24 hours) such as: accommodation, food, health, education, recreation, training and all services aimed at promoting the comprehensive care of older persons. Currently the country has 29 permanent centers registered and accredited nationwide.

Among the specific challenges faced by older people to access long-term care, we can highlight:

1. Lack of Specialized Centers for the health conditions of older persons demanding palliative care.
2. No existence of geriatric units in hospitals.
3. Lack of qualified permanent care centers.
4. Lack of institutions for older persons with serious mental health conditions.

Among the measures that have been taken to guarantee high quality and sustainability in the systems of long-term care for older persons, in the first place, we can mention the centralization of the day and permanent centers, by Presidential Decree [\[10\]](#), from the Ministry of Public Health to the National Council of Older Persons, whose action has generated a regularization framework of norms, protocols and procedures for the free and informed consent of older persons in relation to their care, and establishing a mechanism of information, legal documents and authorizations for any procedure with the older person.

In addition, the afore mentioned Law 352-98 on Protection of the Older Persons is in the process of being modified to be updated to the new concepts that are being used internationally with respect to this and other rights.

In terms of the progressive elimination of all restrictive practices in long-term care, there are large gaps, but the Dominican Republic is working for the elimination of these through the creation of protocols in this regards. Concerning the sustainable financing of long-term care and support services, the "SENASA cuida de ti" program is currently being developed, a service provided through the National Health Insurance, which includes home visits within the insurance health coverage. We understand that mechanisms should be created for the reparation of older persons in case of abuse and human rights violations rooted in the long-term care beyond the regime of consequences to perpetrators.

Other rights that are essential for the enjoyment of the right to long-term care by older persons or those affected by not enjoying this right, can be, the right to health, to social security, to privacy, to intimacy, the right to welfare and care, right to live a dignified life, right to physical, economic and social security.

In the case of palliative care, it is established similarly in Article 1 of Law 352-98 on the Protection of the Older Persons, defining incurable age to "a person who has been medically declared terminally ill and has no economic or family resources for their survival" [\[11\]](#), who will be protected under the protection of the aforementioned law. Likewise, a special protection by the State is conceived when contemplating that "older person suffering from any serious physical or mental illness has the right to special protection, so that he has easy access to the health services. All the indispensable actions will be taken for the prevention and the treatment of diseases common in older persons" [\[12\]](#).

Among the main needs that older people face with regard to end-of-life care, the following can be highlighted: access and availability of home services that guarantee a better quality of life for all older persons who require these care services, regardless of their economic situation, as well as the availability of trained personnel in these cares. As challenges, it can be mentioned that most of the attention provided in the state network is directed more to the treatment of pain in catastrophic diseases such as cancer, having difficulties to implement this care in more frequent degenerative diseases in the stage of old age. Also, insufficient information to see to what extent palliative care is available or not for all older persons and in what way, but, nevertheless, through the permanent public and private centers there is a support network for this populations, defined by geographical area.

As good practices in this regard, we can highlight the creation of specialized units in violence against adults in the general attorney's offices with the aim of channeling more quickly the complaints of older adults affected by situations of violence and abuse in permanent care centers, as well as the creation of the palliative care protocol that is implemented in the elderly care centers, based on the bioethical principles of: the evolutionary situation and progression of the disease, the frequency of complications, the assessment of the current crisis, attitude of the patient before care, the degree of control of symptoms and the opinion of the family.

III. Normative contributions for the focus areas of the VIII Session of the Open-Ended Working Group on Aging held in 2017 : Equality and Non-Discrimination / Negligence, abuse and mistreatment

In the Dominican Republic, we promote a new paradigm of attention to older persons based on a rights approach for the comprehensive protection of this population. In this sense, the following rights are proposed:

1. Equality and non-discrimination because of age
2. Right to life and dignity of older persons
3. Right to security and a life without any violence
4. Equal recognition as a person before the law
5. Right to stay in your family nucleus
6. Right to social protection
7. Right to integrity
8. Right to security

[1] Art. 57 Constitution of the Dominican Republic

[2] Art. 3 Law 352-98 on Protection of the Aged Person

[3] Ibid . Art. 4

[4] Ibid . Art. 7

[5] Ibid. Art. 8

[6] Ibid. Art. 9

[7] Ibid . Art. 19, literal C.

[8] Information based on institutional statistics of the departments of Social Development, Legal Division, Unit of Diagnosis and Supervision and Evaluation of Centers.

[9] Art. 1 literal D Law 352-98 on Protection of the Aged Person

[10] Presidential Decree no. 83-15 , President Danilo Medina

[11] Article 1, letter C, Law 352-98 on the Protection of the Aged Person

[12] Ibid . Art. 4