

Guiding questions for the focus areas of the IX session of the Open-ended Working Group on Ageing: Autonomy and independence

Japan has been working on ensuring quality healthcare and welfare services, as well as establishing a stable Long-Term Care Insurance system into the future. These efforts are made in order for the elderly who are in need of support to lead an independent life with dignity in their local communities.

1) In your country/region, how is the right to autonomy and independence of older persons defined in legal and policy frameworks?

“Act on the Prevention of Elder Abuse” defines that the State and the local governments are required to advance policy measures for prevention, early identification and necessary action against the elder abuse so as to contribute to the protection of the rights and interests of elderly persons.

In addition, through the projects promoting elderly rights protection, the measures taken by prefectures are supported in order to prevent elder abuse, and assist and protect from further abuse those who have already suffered.

2) What other rights are essential for the enjoyment of the right to autonomy and independence by older persons, or affected by the non-enjoyment of this right?

When the abuse based on economic reasons is identified, necessary measures are required including the use of the adult guardianship. There are cases where the life, health and livelihood of the elderly can be damaged.

3) What are the key issues and challenges facing older persons in your country/region regarding autonomy and independence? What studies and data are available?

The number of consultations and notifications on the elder abuse is increasing. It reaches the highest recorded figure in 2016. The number of abuse cases by caregivers was 27,940, and the number of those by care facility staff members was 1,723 in JFY2016.

The major causes of the elder abuse are “tiredness and stress from long-term care” and “problems with education, knowledge and techniques about long-term care.”

4) What steps have been taken to ensure older persons' enjoyment of their right to autonomy and independence?

The local governments provide training programs for the chief of the local facilities.

They also provide consultation services by experts such as lawyers and social workers for the prevention and early identification of elder abuse.

5) What mechanisms are necessary, or already in place, for older persons to seek redress for the denial of autonomy and independence?

Regarding the abuse by caregivers, the local governments are required to take necessary measures to protect the elderly, as its initial response, who faces serious risk of threat to life or health.

In case of an abuse by care facility staff members, the local governments shall exercise the authority under the Act on Social Welfare for the Elderly or the Long-Term Care Insurance Act, such as order of reports, on-site inspection, recommendations, publication and orders of measures, in an appropriate manner.

6) What are the responsibilities of other, non-State, actors in respecting and protecting the right to autonomy and independence of older persons?

Under the “Act on the Prevention of Elder Abuse”, the local governments are obliged 1) to strengthen collaboration with related organizations, 2) to secure the specialized human resources and enhance their capability, and 3) to conduct public relations activities and other enlightenment activities of notification obligation and remedy systems for human rights violations etc. The citizens shall make efforts to cooperate with policy measures taken by the State or the local governments.

Long-term care and palliative care

1) In your country/ region, how is long-term care for older persons defined and provided for in legal and policy frameworks? What types of support and services are covered?

Long-Term Care Insurance Act defines the framework to support the elderly care by whole society. It covers the home-visit services, the outpatient services and the in-facility services etc.

2) What are the specific challenges faced by older persons in accessing long-term care?

3) What measures have been taken/are necessary to ensure high-quality and sustainable long-term care systems for older persons, including for example:

• Sufficient availability, accessibility, and affordability of services on a non-discriminatory basis?

The Long-Term Care Insurance system in Japan employs a social insurance system, where a user pays social insurance premium and in return receives social insurance security benefits. It is planned that the payment does not exceed the affordable level in order for everyone to use the necessary service when it is needed.

• High quality of services provided?

• Autonomy and free, prior and informed consent of older persons in relation to their long-term care and support?

Under the Long-Term Care Insurance System, before the elderly people use the services, the care managers develop a care plan based on the users' request and needs to maintain their daily lives independently. The care managers also explain its substance to the users and their families to have their consent in writing.

• Progressive elimination of all restrictive practices (such as detention, seclusion, chemical and physical restraint) in long-term care?

• Sustainable financing of long-term care and support services?

• Redress and remedy in case of abuse and violations?

Last year, the Long-Term Care Insurance Act was amended to increase the elderly's

co-payment rate from 20% to 30% for those whose income is comparable to the working-age class. This was aimed at promoting the sustainability of the system, and maintaining the equality between/within generations.

4) What other rights are essential for the enjoyment of the right to long-term care by older persons, or affected by the non-enjoyment of this right?

5) In your country/region, how is palliative care defined in legal and policy frameworks?

In article 15 of the Cancer Control Act, palliative care is defined as "the treatment, nursing care, and other action of improving and maintaining the quality of the recuperation by relieving physical or mental distress, or social living anxiety in those who suffer from cancer or other disease ". In addition, it is written "palliative care is to be appropriately provided after diagnosis of cancer according to the situation of the patient" in article 17 of the law.

6) What are the specific needs and challenges facing older persons regarding end-of-life care? Are there studies, data and evidence available?

7) To what extent is palliative care available to all older persons on a non-discriminatory basis?

Article 2 of the Cancer Control Act says that all cancer patients are to be able to receive not only proper medical care but also welfare, educational support and other necessary support according to the situation of cancer patients.

8) How is palliative care provided, in relation to long-term care as described above and other support services for older persons?

9) Are there good practices available in terms of long-term care and palliative care? What are lessons learned from human rights perspectives?

Hospital palliative care teams and out-patient clinics are available at 401 designated cancer hospitals and 36 local cancer hospitals throughout Japan to provide specialized palliative care services. In addition, palliative care workshops aimed at acquiring knowledge, skills and attitudes on basic palliative care were conducted throughout Japan, and 101,019 doctors and dentists have completed the workshops thus far.