

## HUMAN RIGHTS IN ARGENTINA: THE PROTECTION OF OLDER PEOPLE

### AUTONOMY AND INDEPENDENCE

- 1) The Inter-American Convention on Protecting the Human Rights of Older Persons (hereinafter the Convention) was ratified by Argentina on May 9th, 2017 under 27,360 Act (published in the Official Gazette on May 31<sup>st</sup>, 2017), previously adopted by the Organization of American States during the 45<sup>th</sup> OAS General Assembly held on June 15, 2015. Since then this Convention constitutes the main legal framework in our country concerning human rights and fundamental liberties of older people. Respect for the autonomy of older adults in decision-making, and also their independence in the performance of their actions, were defined in section 7° of this legal tool as the “**Right to Independence and Autonomy in Older Age**”.

Our Civil and Commercial Code includes several provisions regulating and protecting various rights for older people. Sections 646, 668 y 671, inter alia, respectively ensure respect for the child's right to sustain personal relations with his/her grandparents, the maintenance obligation towards relatives in the ascendant line and the lending of a helping hand to parents in times of need.

General principles referred to rights of older persons were established in Article 3 of the Convention, such as their recognition, role in society, and contribution to development; their dignity, independence, proactivity, and autonomy; participation, integration, and full and effective inclusion in society; well-being and care; physical, economic, and social security; self-fulfillment; gender equity and equality; solidarity and the strengthening of family and community protection; effective judicial protection; responsibility of the State and participation of the family and the community in the active, full, and productive integration of them into society.

Likewise, the Convention enshrines other essential rights, such as the right to life and dignity in old age, the right to participation and community integration, the right to security and not to be subjected to torture or cruel, inhuman or degrading treatment or punishment, the right to health and social security, work, education, culture and recreation, accessibility and personal mobility.

- 2) In an article that appeared in the *Revista de Negociación, Negociación y Métodos RAD* (No. 12, April 2018) Ms. María Camelino captures such view when declares that the age is not the one which limits older persons, but **the concept behind: the old age regarded as obsolescence**. We share this approach entirely. Such concept assumes that adult contribution is only possible within the context of economic productivity, leaving aside other areas, such as the cultural one, where their contributions may well continue. Therefore, this perspective must be reversed and, in our opinion, it is crucial for the protection of our older people.

Account should be taken also of certain words such as "grandparent" and "elderly" which create -especially for older adults- the sense of vulnerability delaying or curtailing their

ability to enjoy life and to carry out activities autonomously. So then, the independence of older adults is critical for taking their own decisions, such as the time they considered proper for the termination of their working life, the attendance of cultural and recreational programmes and the opportunity of living in safe environments suited to their personal preferences. Nor should it be forgotten that their participation must be actively encouraged taking part in society when formulating and implementing policies which affect them directly. Socio-economic inequality is another issue encountered by them in basic areas, such as health care and social services particularly. Therefore, more dissemination and education programmes should be developed to make possible the maximum inclusion of older people.

4) Our national Ministry of Social Development, through the national office responsible for older adults policies, promotes protection, care and participating programmes for older people, by providing them opportunities to receive comprehensive care and also to share their knowledge and experience with younger generations. Among other initiatives autonomy and independence are encouraged by enhancing society's awareness, organizing campaigns and information to search for a kind treatment in order to prevent further situations of abuse and mistreatment, promoting cultural and recreational activities to allow them to be involved in the community, facilitating their access to new technologies through digital literacy courses and inviting them to take part of a radio show: "*AM Radio Abierta*" in order to foster a positive image of old age.

5) As for national context, substantive rules, such as the National Procedural Code, and special rules such as the *Amparo Law*, No. 16.986, contain the existing mechanisms for the protection of rights recognized to older people in judicial litigations. Those issues that can be settled at a national administrative level find this the possibility by applying the National Administrative Procedure Act. The national Public Prosecutor's Office, whose mandate consists of ensuring the effective enforcement of the national Constitution and the international human rights instruments to which our State is a party, and of guarantying the access to justice for all (27,148 Act, sections 1 and 9 paragraph c)), released a paper called "Contributions for the implementation of the new Inter-American Convention on the Protection of Human Rights of Older Persons" that includes the most relevant aspects of said Convention. This constitutes a contribution for the protection of older persons. Further, the Ombudsman is entitled to act in case of maladministration on the part of national governmental bodies or their servants, in order to protect the rights of our old people (24,284 Act).

6) Nevertheless and according with our view, non-State actors should also pay attention to the issue of older persons by attempting to re-evaluate their role within a family, as well as to encourage their inclusion in society. Thus, guidance on management and procedures related to those areas of interest for older adults should be provided by them, taking part and supplementing all matters not covered by government authorities.