

HUMAN RIGHTS IN ARGENTINA: THE PROTECTION OF OLDER PEOPLE

LONG- TERM AND PALLIATIVE CARE

ARGENTINA¹The national Argentine Constitution has adopted the federal, republican, representative form of government. The country is divided into 23 provinces and the autonomous Buenos Aires City. Its population grew around 32.7% between 1990 and 2015, reaching close to 42.7 million inhabitants in 2014. The population structure is getting older and shows a stationary tendency. In 2015 life expectancy at birth was 76.6 years (80.4 for females and 72.8 for males). 91% of the total population lives in urban areas and 2.4% is indigenous: there exist 31 indigenous communities spread throughout the country.

The figures of 2014 show 325,539 deaths, the general mortality rate is 7.6 deaths per 1,000 inhabitants. Geographically, it varies between the cities of Buenos Aires and Tierra del Fuego, which registered 10.7 and 3.7 deaths per 1,000 inhabitants, respectively.

Health-care expenditure accounted for 8.5% of GDP in 2014. Although the entire population has access to the public sector services, considering the State investments in health the results achieved are still insufficient, that is to say, inequalities persist among different provinces and regions.

Demographic changes, as referred to above, have raised life expectancy for both sexes, and this matter, inter alia, *the prolongation of life*, has impacted directly on the health system operation and performance.

Another issue causing especially impact on the increasing use of the health system is the one closely related to *demographic and migratory factors*, even when funding is still too scarce for improving and developing a substantial growth of the services offered.

According to the last official census-2010², the total Argentine population amounted to 40,117,096³. This document shows that our inhabitants over age 65 rose to 4,104,648, representing almost 10% of the total country population.

As regards information regarding living conditions of population over age 60, it was measured by the National Survey on Quality of Life of Older Adults-2012 (ENCaVICAM) using the Annual Survey of Urban Households (EAHU) as a sample frame, with the cooperation of the national office responsible for older adults policies acting here in an advisory role, a national institution pertaining to the national Secretariat for Children, Adolescents and Family within the scope of the national Ministry of Social Development.

ENCaVICAM-2012 covered the following topics: self-perception of health and memory; access to medicines; falls and fractures; depression; physical impairments; dependence; sexuality; relationship with their surroundings; ICT⁴ management; free time; assistance; involvement in household activities and vital satisfaction.

The survey aims to systematize the indicators that characterise the population aged 60 and over (older adults) based on the information produced by the national INSTITUTE OF STATISTICS AND CENSUS (INDEC).

1. According to PAHO, Country Report. Adapted by the national Ombudsman Office of Argentina.

2. INDEC. www.indec.gob.ar

3. Total inhabitants in 2017: 43,847,430, source: www.datosmacro.com/paises/argentina

4. ICT = information and communication technologies

As mentioned there, 57% of the interviewed population were females. As the age advances, females increased their share, representing 63% of people aged 75 and over. As for free time, almost 6 out of 10 interviewees performed in the last three months physical exercise or activities, such as walking, jogging, swimming, sports, gym, yoga, dancing, etc. The majority of them (78%) practiced exercise more than once a week.

Legislation:

a) Rights of Older People. International Instruments.

Addressing issues relevant to older adults and their protection and safeguarding against ageing, the UN General Assembly, according to A-C.3-70-L.50, November 2, 2015⁵, reaffirmed the documents included there and welcomed the important opportunity to further mainstream ageing issues provided by the adoption of the 2030 Agenda for Sustainable Development and its pledge that no one shall be left behind⁶.

Additionally, it welcomed the recent regional developments towards the effective protection and promotion of the human rights of older persons, such as the adoption of the Inter-American Convention on the Protection of Human Rights of Older Persons

And it noted that, between 2015 and 2030, the number of persons aged 60 years or over in the world is projected to grow by 56 per cent, from 901 million to 1.4 billion, and recognizing that the increase in the number of older people will be the greatest and the most rapid in the developing world.

b) Rights of Older People. National Legislation:

As regards domestic legislation, international treaties were included by the national Argentine Constitution in section 75, paragraph 22, through the 1994 amendment⁷.

In accordance with section 75, the Congress shall have power to "legislate and promote proactive measures that guarantee true equality of opportunity and treatment, and the full enjoyment and exercise of the rights recognized by this Constitution and by current international treaties on human rights, in particular with respect to children, women, the elderly and people with disabilities." All the inhabitants of the Nation, according to section 14, are entitled to work and perform any lawful industry; the social security subject is addressed in section 14 *bis* that declare: "The State shall grant the benefits of social security, which shall be of an integral nature and may not be waived". Accordingly, Argentina formally adhered to *the Inter-American Convention on the Protection of the Human rights of Older Persons* by passing 27,360 Act⁸. The aforementioned instrument was adopted by the Organization of American States (OAS) and was ratified by Argentina, Bolivia, Brazil, Chile, Costa Rica and Uruguay.

As for other norms that directly refer to the situation of older adults, we might mention here the 21,074 Act, on "subsidies and family allowances"; the 24,241 Act on "comprehensive retirement and pensions plan system"; the 24,417 Act, on "protection against family violence"; the 24,734 Act, on "right to use services of the healthcare system for old-age pension beneficiaries"; the 25,724 Act, on "National Nutrition and Food Programme

Concerning other existing legislation, the 81 Act passed by the Buenos Aires City Legislature establishes the "guiding principles in the City of Buenos Aires for public policies aimed to older adults"; the 864 Act, regulates on "homes for the elderly"; the 5420 Act provides for the "comprehensive prevention and protection against abuse and mistreatment of older adults", considering as such those who are over age 60.

5. Argentina: Draft Resolution -HR for older people-.

6. See Resolution 70/1.

7. Paragraph 22: "To approve or reject treaties concluded with other nations and international organizations, and concordats with the Holy See. Treaties and concordats have a higher hierarchy than laws."

8. Published in the Official Gazette, 05/31/2017, p. 2; adopted by the OAS General Assembly, 06/15/2015.