

## **Guiding Questions for the focus areas of the IX Session of the Open-ended Working Group on Ageing (Response of NHRCK)**

### **□ Autonomy and Independence**

#### **◦ Q 1**

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

#### **【Answer 1】**

- Constitution of Republic of Korea, Article 10 (Guarantee of human dignity and basic human rights), Article 12 (Personal liberty)
- The Welfare of Older Persons Act, Article 2 (Fundamental Ideas)

- ① Older Persons shall be respected as they have contributed to the upbringing of descendants and the development of the State and society, and their sound and stable lives shall be ensured.
- ② Older persons shall be guaranteed opportunities to be engaged in proper jobs and to participate in social activities, depending on their abilities.

◦ **Q2**

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?

**【Answer 2】**

- Constitution of Republic of Korea, Article 14 (Freedom of residence and right to move), Article 15 (Freedom of occupation), Article 17(Privacy), Article 23 (Right to property), Article 32.1 (Right to work)
- The Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion, Article 4.4 (Prohibition on Age Discrimination in Recruitment, Employment, etc.)

① Employers shall not discriminate against any of their workers or any persons who wishes to work for them, on the grounds of age without justifiable grounds.

◦ **Q3**

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

### **【Answer3】**

- Challenge: Elderly poverty

Poverty rate of the elderly has improved to some extent with introduction of basic pension(2014.7)\*, but the figure is still the highest among OECD members, and there is a continuous need for guarantee of income after retirement by strengthening public pension system.

\* Poverty rate of elderly after introduction of basic pension system: (2013) 48.1% →(2015) 44.8% →(2016) 46.5% (OECD (2014) 12.1%)

- Challenge: Social participation of the elderly

Compared to the high desire to work by the elderly\*, there are not enough and diversified jobs for the elderly.

\* 61.2% of the elderly(aged 55~79) has a will to work for 'cost of living(58%)' and 'joy of working(34.%)' (2016 Elderly Statistics)

- Challenge: financial burden and inter-generational conflict due to increasing needs for care

Due to increased financial burden incurred by rapid population ageing, inter-generational conflict occurs, and with increased number of the elderly needing for care including those with dementia or living alone, personal and social burden is increasing.

\* Increase of budget for elderly welfare : (2007) 0.5 trillion won(0.24% of government budget) →(2016) 9.2 trillion won (2.4%)

\* Medical expense of the elderly in health insurance : (2010) 14.1 trillion won(32.2% of total medical benefits) →(2016) 25.0 trillion won(38.7%)

\* In 2017, among 7.12 million elderly, 1.34 million are living alone(18.8%), and 0.73 million suffer from dementia(10.2%)

(Reference of the Ministry of Health and Welfare)

#### ◦ Q 4

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

#### **【Answer 4】**

- Economic Autonomy: efforts were made to provide economic autonomy by providing stable income source through basic pension, national pension and projects for senior employment.
- Physical Autonomy: efforts were made to enhance physical autonomy by promoting health of and care for the elderly through long-term care insurance system, care service, health insurance and health and medical treatment system.
- National Human Rights Commission of Korea Act, Article 26(Education and Promotion of Human Rights)

◦Q5

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

**【Answer 5】**

- There is no special redress system only for the elderly, but when older people suffer damage due to government measures, they can file a complaint to relating courts for national reparation and compensation.
- National Human Rights Commission of Korea Act, Article 19.2 (Investigation and remedy with respect to human rights violations), Article 19.3 (Investigation and remedy with respect to discriminatory acts)

◦Q6

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

**【Answer 6】**

- National Human Rights Commission of Korea was established as an independent institution not as a government department, in order to realize human dignity and value by protecting and promoting inviolable basic human rights of every individual including the elderly. (25 November, 2001 established.)

## □ Long-term care and palliative care

### ◦ Q1

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?

### **【Answer 1】**

- Article 2(Definition) of The Act on Long-term Care Insurance for Older Persons, prescribes that 'long-term care benefits' means services such as aid in physical activities and household chores or nursing, or money, etc. paid instead of such services provided to a person who is determined to have difficulties in carrying on with daily life on his/her own due to old age or senile diseases.
- Such benefits include Benefit for home care service(Home visit care, home visit bathing, home visit nursing, day and night care, short-term respite care), Institutional care benefit, Care allowance for special cases

### ◦ Q2

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

## **【Answer 2】**

- In order to receive benefits, people have to file an application for approval for long-term care and be recognized as beneficiary by the need assessment committee, and benefits are provided differently (with 6 grades) depending on mental and physical conditions and need for long-term care and whether they suffer from dementia or not.
- Act on Long-term Care Insurance for Older Persons, Article 40  
(Beneficiary's Co-payment of expenses)

## ◦ Q3

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

**【Answer 3】**

– Establishment of the 2<sup>nd</sup> Basic Plan for Long-term Care in order to provide better service(Year 2018~2022)

< Main elements of the 4 Tasks of the 2nd Basic Plan for Long-term Care >

① Expansion of Long-term Care that strengthens social responsibility for care

– Expand service and beneficiary of long-term care service and reduce co-payment burden on patient

② Strengthen local community care to guarantee quality of life

– Reform and strengthen management of long-term care service for customized care

③ Establishment of a reliable infrastructure for long-term care service

– Expansion and diversification of infrastructure for long-term care and strengthen assessment and management of long-term care institution

④ Guarantee substantiality of long-term care in super-aged society

– Devise measures to secure stable budget for long-term care, improve medical charge system, and prevent dissipation of budget through strengthened monitoring on unlawful provision of care

◦ **Q4**

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?

**【Answer 4】**

- In order to enjoy the right to long-term care, people have to join the national health insurance or have the right to receive medical benefit (Medicaid).
- When receiving insurance benefits or compensation under other statutes due to a disease, an injury, or a disaster incurred relating to business or in the line of duty, or receiving benefits equivalent to the health care benefit or expenses equivalent to the costs of health care benefit from the State or a local government, long-term care service cannot be provided.

◦ **Q 5**

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

**【Answer 5】**

- Article 2.6 of The Act on Decisions on Life-sustaining Treatment for Patients in Hospice and Palliative Care or at the End of Life defines ‘hospice and palliative care’ as the medical care provided to a terminal patient or patient at the end of life and his/her family for the purpose of comprehensively evaluating and providing treatment in physical,

psychosocial and spiritual domains, including pain and symptom relief.

◦ **Q 6**

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

**[Answer 6]**

- Regarding the place of death of older persons, the number of death in hospital is increasing.
- According to the Survey on Older Persons(2014, Ministry of Health and Welfare/Korea Institute for Health and Social Affairs), the number of older people living alone or suffering from chronic diseases is increasing, and 88.9% of the respondent opposed life-sustaining treatment. Thus, provision of palliative care is needed for older people at the end of life who needs care.

◦ **Q 7**

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

**【Answer 7】**

- As for the use of narcotic analgesics which belong to general palliative care, prescription and purchase by a doctor is unlimited.
- Professional palliative care is covered by the National Health Insurance. It is provided upon request to a patient at the end-of-life or terminal patient(cancer, Acquired Immune Deficiency Syndrome(AIDS), chronic obstructive respiratory disease, chronic liver cirrhosis) by an institution specialized in hospice care. There are three forms of service including In-hospital, In-council, and In-home hospice.

◦ **Q 8**

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

**【Answer 8】**

- Palliative care is provided by a specialized hospice team(doctor, nurse, social welfare worker) at an institution specialized in hospice care designated by the Ministry of Health and Welfare

◦ **Q 9**

Are there good practices available in terms of long-term care and palliative care?

What are lessons learned from human rights perspectives?

**【Answer 9 (Lessons learns)】**

- Alleviation of pain: alleviation of pain or symptom is basic human rights
- Respect human dignity: efforts are being made to provide the highest level of medical treatment and care by taking a holistic approach regarding physical, psychosocial and spiritual matters to enhance quality of life and respect the choice and value of patients and their family
- Respect autonomy: care is provided upon the voluntary request of patients after education and explanation, and patient's will is respected when they do not want to receive the care.