**GUIDING QUESTIONS FOR THE FOCUS AREAS OF THE X SESSION OF THE OPEN-ENDED WORKING GROUP ON AGEING: Social protection and social security (including social protection floors)**

**National legal framework**

1. What are the legal provisions in your country that recognises the right to social security and social protection, including non-contributory old age benefits? Do they have a constitutional, legislative or executive foundation?

- The Constitution of Republic of South Africa, 1996 (Act No 108 of 1996) lays the foundation for socio-economic rights in the country, namely, Everyone has a right to have access to social security, including, if they are unable to support themselves and their dependents, appropriate social assistance.

- The Social Assistance Act No 13, 2004 and its Regulation of 2008 make provisions for the payments of social grants (i.e., cash transfers) to vulnerable groups including older persons.

**Availability**

2. What steps have been taken to guarantee universal coverage, ensuring that every older person has access to social security and social protection schemes including non-contributory, contributory and survivor old age pension, to ensure an adequate standard of living in old age?

- It merits to indicate that the country uses targeting mechanism for cash transfers. For the past 20 years, the following legislative amendments were made to expand coverage:

* racial and benefit alignments: do away with discrimination based on race and to provide equal benefits to older persons.
* means test adjustments: take into account the inflation rate in respect of annual increases.
* equalisation of the qualifying age between males and females.
* changes to eligibility criteria to include permanent residents and refugees.
* provision of additional benefit to older persons age 75 and above, a principle used for those who receive tertiary tax rebates.

- Social partners such as Government, organised labour, community representatives and business are discussing proposals tabled by Government with the aim to introduce a mandatory public pension (national social security fund – NSSF) providing old age, survivor and disability benefits. As currently is the case, the contributory provision to cover old age, death and survivor benefits, the country relies on occupational and bargaining councils and umbrella funds which take employer and employees contributions

3. What steps have been taken to ensure that every older person has access to social security and social protection schemes which guarantee them access to adequate and affordable health and care and support services for independent living in old age?

- The State provides the following social protection basket of services to older persons:

(a) Free access to ***social work services*** at provincial and local levels. These services are in the form of counselling, training on parenting and coping skills to stabilise families that experience social problems.

(b) Provided ***income support (Older Person’s Grant)*** to eligible older persons who meet the prescribed criteria.

(c) Free ***primary health care services*** in public facilities such as clinics and hospitals, aimed at providing easy access to chronic medications and assistive devices which reduce frailty and delay death.

(d) Subsidised ***residential care facilities*** such as old age homes and retirement villages to provide an alternative care to older persons who need 24 hours supervision where family members work outside their homes.

(e) Payment of ***stipends to Community Care Givers*** (CCGs) who provide care and support to older persons in communities. CCGs have a positive impact on service delivery at local level: they assist older persons who stay alone or those who are frail by supervising the intake of medication and take care of hygiene in the house.

(f) Reduced ***tariffs for municipal services***. Taking into consideration reduced income on retirement, less tariffs provide older persons with reasonable disposable income for them to survive until the next pay.

(g) Reduced ***tariffs for TV licenses***, to stay in touch with the world and receive health related advices from experts.

(h) Reduced ***tariffs on government buses and trains*** to provide affordable public transport and easy movement from one point to another.

(i) Subsidised ***luncheon clubs and provision of meals at nutrition centres*** where older persons meet and engage in income generating activities, such as vegetable gardens, bead work and sewing. These clubs are also platforms to share problems and strengthen their social support. They also receive two meals per day.

(j) ***Free Adult Basic Education and Training*** (ABET) to improve literacy and numeracy among older persons.

(k) ***Free training on various sporting codes*** in preparation for annual Golden Games to encourage active ageing and healthy lifestyle.

**Adequacy**

4. What steps have been taken to ensure levels of social security and social protection payments are adequate for older persons to have access to an adequate standard of living, including adequate access to health care and social assistance?

- The value of old age pension is reviewed to determine the annual increase. The methodology use to determine the value ensures long term linkage to the Consumer Price Index (CPI) so that older persons are compensated for annual price increases. The forecast of CPI inflation including the Value Added Tax (VAT) increase was 5.5 per cent in 2018/19 financial years. For instance, the old age pension increased by R100 from R1600 in 2017/18 to R1690 in April 2018 and to R1700 in October 2018. This represents an annual increase of 5.9 per cent, which is in fact above the CPI inflation projection of 5.5 per cent and the August actual of 4.9 per cent.

**Accessibility**

5. What steps have been taken to ensure older persons have adequate and accessible information on available social security and social protection schemes and how to claim their entitlements?

- The You and Your Grant Booklet which contains social grants (cash transfer) information on eligibility criteria, required documents and social grants values. This Booklet is translated into various official languages. The translations take into account the literacy level among older persons.

- The Speaking Books on social grants. The Books have on and off button, the older person selects section(s) he or she wants information. The Books are audio in its design – it speaks on various eligibility criteria, requirements, types of grants and values, judicial and non-judicial redress mechanism. The Books are translated in 11 official languages.

- Radio talk-shows, Imbizo, Integrated Community Outreach Programme (ICROP) and community gathering. These are word of mouth platforms where officials provide information to the public on social grants.

6. The design and implementation of normative and political framework related to social security and social protection benefits included an effective and meaningful participation of older persons?

- The social grants system is means tested benefits. It is the national competency in terms of legislation. The administration is done by the Government Agency with offices in provincial and local levels.

- It is a requirement that whenever legislation pertaining older persons issues is enacted, the older persons sector is consulted for inputs, buy-in and support. Furthermore, an annual feedback session is organised to give feedback to the sector on the progress made.

**Equality and non-discrimination**

7. Which are the measures adopted to ensure equitable access by older persons to social security and social protection, paying special attention to groups in vulnerable situation?

- The Constitution states that the State may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscious belief, culture, language and birth*.* Furthermore, the Constitutionemphasises that where unfair treatment and discrimination of anyone or categories of persons is unjustifiable, legislation and other measures must be developed. For instance, refugees with legal status were excluded in the existing social grants provisions. Therefore, the legislation was reviewed to extend coverage to refugees.

**Accountability**

8. What mechanisms are in place to ensure social security and social protection schemes are effective and accountable?

- There are Chapter 9 institutions such as Human Right Commission and the Public Protector. These institutions take any complain from public or interested parties, investigate and make findings or recommendations as redress mechanism where applicable.

- At the civil society organisations level, the South African Older Person Forum, Age-in-Action, Senior Citizen United Front, Limpopo Association of Pensioners and Black Sash advocate for the right of older persons and hold the State accountable for its actions.

9. What judicial and non-judicial mechanisms are in place for older persons to complain and seek redress for denial of their right to social security and social protection?

a. Judiciary mechanisms

- The Social Assistance Act makes provision that the Agency responsible for the payments of social grants writes a letter to inform the older persons about the outcome of their application. The letter also provides reasons for award or rejection.

- If an older person is still not satisfied with the Agency’s reconsidered decision, then an older person or a person acting in his or her behalf, has a right to lodge an appeal with the Independent Tribunal for Social Assistance Appeals (ITSAA). An older person or a person acting in his or her behalf requests the ITSAA to review the Agency’s reconsidered decision.

- If an older person or a person acting in his or her behalf is still not satisfied with the ITSAA reviewed decision, then an older person or a person acting on his ore behalf, may approach the High Court for judiciary review as provided for in the Promotion of the Administrative Justice Act No 3 of 2000.

b. Non-judiciary mechanisms

- Older persons’ parliament

- Memorandum of demands

- Protest actions

These are the existing mechanisms available to redress the denial of a right to access to social security and social protection to promote and protect administrative justice.

**GUIDING QUESTIONS FOR THE FOCIS AREAS OF THE X SESSION OF THE OPEN-ENDED WORKING GROUP ON AGEING:** **Education, training, life-long learning and Capacity Building**

**National Legal Framework**

1. In your country/region, how is the right to education, training, life-long learning and capacity building in older age guaranteed in legal and policy frameworks?

-The Constitution of Republic of South Africa, 1996 (Act No 108 of 1996) lays the foundation for rights to education in the country, namely, Everyone has a right to a basic education including adult basic education and to further education.

-The Older Persons Act 13 of 2006provides a platform that ensures access to information, education of and training of older persons;

**Availability, Accessibility and Adaptability**

2. What are the key issues and challenges faced by older persons in your country/region with regard to the enjoyment of all levels of quality education, training, life-long learning, and capacity building services1?

-Older persons’ education is not always prioritised due to limited resources and high rate of unemployment in the country. Children and youth are always prioritised thus limiting accessibility of older persons to bursaries and other educational opportunities.

3. What steps have been taken to ensure that education, training, life-long learning, and capacity building services are available and accessible to all older persons, adapted to their needs, suited to their preferences and motivations, and of high quality?

-Formal education system is available which allows older persons to capacitate and empower themselves including those who doesn’t have formal education through Adult Basic Education Training (ABET) programme.

-Awareness campaigns and capacity building programmes are in place to ensure participation, accessibility of information, training and life-long learning of older persons in communities, Community Based Organisations and Residential facilities.

4. In your country/region, are there studies and/or data available on the access of older persons to the right to education, training, life-long learning and capacity building in older age?

**Equality and non-discrimination**

5. In your country, is age one of the prohibited grounds for discrimination in relation to education in older age?

-Yes. In terms of the Constitution of Republic of South Africa, 1996 (Act No 108 of 1996), everyone is equal before the law and no one can be discriminated in relation to education based on their age.

**Accountability**

6. What mechanisms are necessary, or already in place, for older persons to lodge complaints and seek redress for denial of their right to education, training, lifelong learning and capacity building?

- Older Persons Parliament.

-An advocacy body South African Older Persons Forum for lobbying and advocating for the rights of older persons.

- Chapter 9 institutions such as Human Right Commission and the Public Protector.

**GUIDING QUESTIONS FOR THE NORMATIVE FRAMEWORK OF THE ISSUES EXAMINED AT THE IX SESSION OF THE OPEN-ENDED WORKING GROUP ON AGEING: Autonomy and Independence**

**National legal framework**

1. What are the legal provisions in your country that recognizes the right to autonomy and independence? Do they have a constitutional, legislative or executive foundation?

-The Constitution of Republic of South Africa, 1996 (Act No 108 of 1996) lays the foundation to respect the dignity of people and to promote for autonomy and independence of people in decision-making on issues pertaining to their lives.

-The Older Persons Act 13 of 2006provides a platform that ensures recognition of older person’s autonomy and independence and promotes their participation in decision-making on issues affecting them.

**Normative elements**

2. What are the key normative elements of the rights to autonomy and independence? Please provide references to existing laws and standards where applicable.

-The key elements of the rights to autonomy and independence is about maintaining the inherent dignity of people as capable human being.

-Equality.

- Freedom.

3. How should *autonomy* and *independence* be legally defined?

Autonomy and Independence can be legally defined as the ability to make own decisions

Implementation

4. What are the policies and programmes adopted by your country to guarantee older person’s enjoyment of their right to autonomy and independence?

--Madrid International Plan of Action on Ageing

-South African policy for Older Persons, 2005

-Older Persons Act, 13 of 2006

-Older Persons Act Regulations

-Community- Based and Care Programmes

-Residential Care Services.

5. What are the best practices and main challenges in adopting and implementing a normative framework to implement these rights?

None.

**Equality and non-discrimination**

6. Which are the measures adopted to ensure equitable access by older persons to the enjoyment of the right to autonomy and independence, paying special attention to groups in vulnerable situation?

-Capacity building on legislative frameworks

-Awareness campaigns

-Advocacy programmes.

**Participation**

7. The design and implementation of normative and political framework related to autonomy and independence included an effective and meaningful participation of older persons?

-Yes. Older persons enjoys the same rights as enshrined in the Bill of rights.

**Accountability**

8. What judicial and non-judicial mechanisms are in place for older persons to complain and seek redress for denial of their right to autonomy and independence

- Older Persons Parliament.

-An advocacy body South African Older Persons Forum for lobbying and advocating for the rights of older persons.

- Chapter 9 institutions such as Human Right Commission and the Public Protector.

-Designated offices in government departments including Offices of the Premier in provinces to deal with vulnerable groups

**GUIDING QUESTIONS FOR THE NORMATIVE FRAMEWORK OF THE ISSUES EXAMINED AT THE IX SESSION OF THE OPEN-ENDED WORKING GROUP ON AGEING:**

**Long-term and Palliative Care**

**Long-term care**

**National Legal Framework**

**What are the legal provisions in your country that recognizes the right to long-term care? Do they have a constitutional, legislative or executive foundation?**

-There are no “formal” legal provisions that speak specifically to the right to long-term care. However the Department of Health is in the process of developing a Strategy on Ageing and Health. This strategy will focus on the integration of services while strengthening accessibility and quality of care to older persons. This will ultimate impact on the strengthening of long term care to older persons.

**Normative elements**

**What are the key normative elements of the rights to long-term care? Please provide references to existing laws and standards where applicable. How should long term care be legally defined?**

No defined normative elements of the rights to long-term care. Long term should be legally defined as a comprehensive care including pyscho-social, medical and any other care that will ensure quality of life for older persons.

**Implementation**

**What are the policies and programmes adopted by your country to guarantee older person’s enjoyment of their right to long-term care?**

A Strategy on Ageing and Health is in the process of being developed and will hopefully be approved and implemented by 2020.

**What are the best practices and main challenges in adopting and implementing a normative framework to implement these rights?**

**Best practices** – None

**Challenges** – Limited resources.

**Equality and non-discrimination**

**Which are the measures adopted to ensure equitable access by older persons to the enjoyment of the right to long-term care, paying special attention to those who are vulnerable or in vulnerable situation?**

Equality and non-discrimination are ensured by the Constitution of South Africa’s (1996) Bill of Rights as set out in Chapter 2.

**Participation**

**Does the design and implementation of normative and political framework related to long-term care include an effective and meaningful participation of older persons?**

The Department of Health strongly believes that older persons should actively participate in the formulation and implementation of policies that directly involves and affects them. To enable this participation decision making processes on issues affecting them, the Department has created an enabling environment that include partnerships with the South African Older Persons Forum that represents older persons in South Africa.

**Accountability**

**What judicial and non-judicial mechanisms are in place for older persons to complain and see redress for denial of their right to long term care?**

-The South African Human Rights Commission is an institution that has been established in terms of Section 81 of the already mentioned Constitution. The Commission is mandated protect the human rights and to address complaints.

-The Office of the Health Ombud is an independent body established in terms of the National Health Amendment Act of 2013 and is located within the Office of Health Standards Compliance. The Health Ombud investigates complaints and reports to the Minister of Health.