

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 framework?

- The right to education in older age is guaranteed by the following laws. The Constitution of South Korea stipulates that all citizens shall have an equal right to receive education (Article 31.1) and the State shall promote life-long learning (Article 31.5). Furthermore, Article 3 of the Framework Act on Education provides that all citizens shall have a right to life-long learning and to receive education based on their abilities and aptitudes.
- Educational opportunities in older age are also protected by Article 36 of the Welfare of Older Persons Act (Leisure and Welfare Facilities for Older Persons) and Article 15 of the Framework Act on Low Birth Rate in an Aging Society (Life-long Education and Informatization).
- In the fourth Framework Plan for the Promotion of Life-long Education (2018-2022), the South Korean government specifies the provision of education for elderly citizens with a focus on the diversification of educational programs, support for degree programs, and cultivation of life-long education specialists.

<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 services?

- As the country entered an aged society in 2017 and is expected to reach a “super-aged” society by 2020 with 20% of its population being considered old, it is deemed critical to create an elderly-friendly social environment.
- Older adult education, which is designed under the scheme of elderly leisure and welfare service and life-long education, is provided through welfare centers and senior citizen classes. Because it is approached from the perspective of leisure and welfare, however, it often fails to accommodate the need for professional development and capacity-building among older persons. Life-long education, which broadly covers all the other education outside the school system, does not necessarily refer to education targeting elderly citizens.

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

- Equal right to education is defined by both the Constitution and individual laws. More specifically, life-long learning for the elderly is laid out in the fourth Framework Plan for the Promotion of Life-long Education (2018-2022) with a focus on the diversification of programs, support for degree programs, and cultivation of life-long education specialists, all targeting older persons.
- Individuals aged 60 or older are eligible for life-long learning services offered through welfare centers and senior citizen classes established by local governments.
 - ※ As of December 2017, South Korea has 366 senior welfare centers, 65,613 senior centers, 1,371 senior citizen classes, and 15 senior vocational training centers across the country.

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?

- In line with Article 18 of the Lifelong Education Act, information and data on the status of public participation in life-long education by age, including older persons, is made available. The provision directs both the Minister of Education and the heads of local governments to compile and publish basic data regarding their implementation of and support for life-long learning.

- In compliance with Article 48 of the Framework Act on National Informatization, the government conducts an annual survey to keep track of the country's digital information gap, including the status of information access among older persons.

<Equality and non-discrimination>

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

- Article 31.1 of the Constitution prescribes the equal right to education for all. Pursuant to Article 2.3 of the National Human Rights Commission Act, the act of preferential treatment, exclusion, or unfair treatment of a particular person regarding access to educational and/or training programs at education facilities and/or vocational training facilities on the grounds of age without any other justifiable reason is defined as discrimination that violates equality.

<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, life-long learning and capacity building?

- In line with Article 68.1 of the Constitutional Court Act, anyone whose constitutional right has been perceivedly violated due to either execution or non-execution of public power shall have a right to lodge a constitutional petition.
- In the case of perceivedly unfair treatment by a public organization, one can seek redress by making a complaint to the corresponding organization and/or pursuing administrative adjudication or litigation.
- Upon receiving a discrimination complaint made in accordance with Article 2.3, the National Human Rights Commission of Korea conducts case investigation and make recommendations when necessary.

Social protection and social security (including social protection floors)

<National legal framework>

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

- Basic rights for the elderly, including rights to health, livelihood, and housing, are established in both the Constitution and individual laws on social security and social protection.
- Article 34 of the Constitution
 - ① All citizens shall be entitled to a life worthy of human beings.
 - ② The State shall have the duty to endeavor to promote social security and welfare.
 - ④ The State shall have the duty to implement policies for enhancing the welfare of senior citizens and the young.
 - ⑤ Citizens who are incapable of earning a livelihood due to physical disability, disease, old age, or other reasons shall be protected by the State under the conditions as prescribed by law.
- Laws that provide social protection and social security for

older persons

- (Health rights) National Health Insurance Act and the Act on Long-term Care Insurance for Older Persons
- (Livelihood rights) Framework Act on Social Security; National Pension Act; Basic Pension Act; National Basic Living Security Act; Social Welfare Services Act; and Welfare of Older Persons Act
- (Housing rights) Framework Act on Residence and Act on Support of the Disabled, the Aged, and Other Housing-disadvantaged People

<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 pensions, to ensure an adequate, standard of living in older age?

- National Pension Program: Starting with workplaces with ten employees or more at the time of its introduction in 1988 as a contributory pension plan, it has gradually expanded to become a universal program that covers all citizens. (It was expanded to workplaces with 5-9 employees in 1992, rural areas in 1995, and urban areas in 1999)
- Basic Pension Program: It was introduced in 2008 in the form

of public subsidy. Aiming to secure basic income for older persons, it provides 250,000 won per month to every elderly citizen with bottom 70% income level as of 2019.

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 care and support services for independent living in older age?

- National Health Insurance: It is a universal health insurance program for all. Established in 1977 targeting companies with 500 employees or more, it has gradually expanded in stages to cover public servants and private school employees in 1979 and rural and urban residents in 1988. It became mandatory health insurance for all citizens in 1989.
- Long-term Care Insurance for Older Persons: This program was introduced in 2008 in response to an increasing need to separate care expenses from the health insurance due to rising medical costs for older adults and to establish an integrated system for health and welfare services. Aiming for universal welfare, it is based on the health insurance program but takes the form of social insurance.
- Article 3 of the Dementia Management Act (Obligations of the State, etc.) obliges the State and local autonomous bodies to

take measures to prevent dementia, provide necessary medical services to dementia patients, and help reduce the burden on the families.

<Adequacy>

4. What steps have been taken to ensure the 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?

- Article 10 of the Framework Act on Social Security (Level of the Social Security Benefit) clearly states as the following: 1) the State and local autonomous bodies shall strive to improve the level of social security benefit in order to promote a healthy and cultural lifestyle for all; 2) the State shall announce both the minimum level of social security protection and minimum wage as defined by law on a yearly basis; 3) the State and local autonomous bodies shall determine the amount of social security benefit based on the minimum level of social security protection and minimum wage as defined in Clause 2).
- In the fourth General Operation Plan for the National Pension published in 2018, the South Korean government announced that it would increase the replacement rate to 40-50%, reducing the gap with other OECD countries. The government

also plans to increase the minimum guarantee of basic pension benefit to monthly 300,000 won in 2022. The basic pension program was introduced in order to complement the national pension system.

<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?

- Relevant laws pursuant to social insurance, public assistance, and social welfare services prescribe the provision of information on relevant benefits and application methods.

* For instance, Article 10.2 of the Basic Pension Act (Provision of Information on Basic Pension) stipulates that the State and local autonomous bodies shall publish information on basic pension, including entitlement, amount, and application methods. Article 14.2 of the Enforcement Decree of the Basic Pension Act (Provision of Information on Basic Pension) sets forth that relevant information shall be provided to those aged 65 or older through such means as websites, newspapers, and broadcast media in accordance with Clauses 2 and 3 as well as through mails, phone calls, and/or facsimiles if necessary.

** Furthermore, the government operates the National Dementia Helpline (1899-9988) to provide information on dementia prevention, management, and related services.

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?

- According to Article 40 of the Framework Act on Social Security (Public Hearing), the State and local autonomous bodies shall collect public and expert opinions by using such means as public hearings and online channels to reflect them in creating social security plans and policies that have significant impact on people's lives.
- When drawing up legislations and policies concerning social security and social protection, the State and local autonomous bodies shall collect and reflect opinions from the public and relevant organizations.

<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 vulnerable groups or those in vulnerable situation?

- A certain amount of income is secured through the Basic Pension program for those aged 65 or older with bottom 70% income level in terms of recognized income.
- With the revision of the Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion in 2013, the retirement age for workers was adjusted to 60 years old in order to increase the period for secure employment. Social security network continues to be strengthened through reforms of the pension system.
- Article 16 of the Framework Act on Low Birth Rate in an Aging Society provides that in establishing policies concerning low-birth rate and aging population, special consideration shall be made to vulnerable persons in older age, including female and disabled seniors, as well as to regional characteristics, including the discrepancies between rural and urban areas.

<Accountability>

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

- The Government sets forth citizens' rights and the accountabilities of the State and local autonomous bodies through legislations pertinent to social insurance, public assistance, and social welfare services.

- In compliance with Article 20 of the Framework Act on Social Security (Establishment of the Long-term Social Security Plan), a long-term plan to promote social security is drafted every five years in order to improve the effectiveness and accountability of the country's social security and social protection schemes.
- Moreover, the Framework Act on Low Birth Rate in an Aging Society was enacted in 2014 with an aim to establish a framework for policies concerning aging population. This legislation mandates the renewing of the basic plan regarding low-birth rate and aging society every five years.

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?

- Article 68.1 of the Constitutional Court Act grants a right to pursue a constitutional petition to anyone whose constitutional right has been perceivedly violated due to execution or non-execution of public power. The Constitutional Court will deliberate if the State has fulfilled its duty to actualize social rights as stipulated in the Constitution.
- Individual laws have well-established measures for how to redress the beneficiary's rights violated in administrative processes. Through a complaint process, a higher

administrative agency will deliberate the illegality or appropriateness of a lower administrative agency's decision. (Articles 38 and 41 of the National Basic Living Security Act; Articles 87 and 90 of the National Health Insurance Act; and Articles 108 and 112 of the National Pension Act)

- Apart from the internal redress process within relevant administrative agencies, individual laws also allow the legality of administrative disposition to be determined through civil trials.

Long-term and Palliative Care

<National legal framework>

1. What are the legal provisions in your country that recognize the right to long-term and palliative care? Do they have a constitutional, legislative or executive foundation?
 - As for long-term care, South Korea has in place the Long-term Care Insurance Service in line with the Act on Long-term Care Insurance for Older Persons (enacted on April 27, 2007 and taken effect on October 1, 2007) in order to provide long-term care services for senior citizens.
 - According to the Act on Decisions on Life-sustaining Treatment for Patients in Hospice and Palliative Care or at the End of Life (enacted on February 3, 2016 and taken effect on August 4, 2017), the government (Ministry of Health and Welfare) operates the National Hospice and Palliative Care Committee, which is chaired by the Vice Minister of Health and Welfare, and the National Palliative Care Management Center. The Committee establishes general directions and plans while the Center manages their implementations.

<Normative elements>

2. What are the key normative elements of the rights to long-term and palliative care? Please provide references to

existing laws and standards where applicable.

- According to Article 3 of the Act on Long-term Care Insurance for Older Persons (Basic Principles of the Provision of Long-term Care Benefit), 1) the benefit shall be provided for the recipient to perform independent daily living activities as much as he/she can based on his/her intention and ability; 2) it shall holistically consider the recipient's physical and mental conditions and living environments as well as his/her familial needs; 3) at-home care benefit shall be prioritized; and 4) it shall be provided in conjunction with medical services in order to promote the recipient's health.
- According to Article 3 of the Act on Decisions on Life-sustaining Treatment for Patients in Hospice and Palliative Care or at the End of Life (Basic Principles), 1) all relevant actions shall respect human dignity and worth; 2) all patients shall have the right to receive the best possible treatment and to be clearly informed on the status of their illness and be able to make informed decisions on treatment options; 3) medical professionals shall provide the patient with the best possible care, clear explanation on palliative care, and respect for the patient's decisions.

3. How should *long-term care* and *palliative care* be legally defined?

- Article 2 of the Act on Long-term Care Insurance for Older Persons (Definition) defines long-term care as a program that provides such services as housework support, physical activity assistance and/or nursing care, or equivalent cash benefits to those who are incapable of performing independent daily living activities for six month or longer (long-term care benefits).
- According to Article 2 of the Act on Decisions on Life-sustaining Treatment for Patients in Hospice and Palliative Care or at the End of Life (Definition), hospice and palliative care refers to medical services provided across multiple areas, including physical, psychosocial, and spiritual support, for relief from symptoms and pain to terminally ill patients and their families.

<Implementation>

4. What are the policies and programs adopted by your country to guarantee older persons' enjoyment of their right to long-term and palliative care?

- Pursuant to Article 8 of the Act on Long-term Care Insurance for Older Persons, individuals are obliged to join both the National Health Insurance and Long-term Care Insurance, through which finances for long-term care services are secured.
- According to Article 10 of the Act on Decisions on

Life-sustaining Treatment for Patients in Hospice and Palliative Care or at the End of Life, doctors shall provide the patient in need of palliative care with information about the palliative care plan and create a customized plan for the patient. Hospice care providers are also encouraged to create a care plan in cooperation with the patient and the family.

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

- Long-term care service, as prescribed in its basic principle, will expand further through the provision of at-home care benefits. For this, the government has implemented a state-led dementia care program to increase public assistance for seniors with geriatric illnesses (e.g. customized case management, expansion of long-term care services, enhanced medical support for dementia patients, and reduced financial burden pertaining to dementia treatment and care services)
- Pain management: In line with WHO's palliative care index "appropriate and sufficient pain management", a cancer pain management guideline was established in 2004 in order to train medical professionals on pain management and opioid analgesics.
- Article 6 of the Act on Decisions on Life-sustaining Treatment

for Patients in Hospice and Palliative Care or at the End of Life defines the second Saturday of October as the Hospice Day. This provision is intended to promote the elderly's right to palliative care.

<Equality and non-discrimination>

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

- Article 4 of the Act on Long-term Care Insurance for Older Persons (Obligations of the State and local autonomous bodies) dictates central and local governments to secure sufficient budgets for long-term care and a sufficient number of long-term care providers.
- In order to promote the use of long-term care insurance by low-income seniors, separate provisions are in place defining the entitlement to and use of medical benefits concerning at-home and facility care services.
- Measures to foster accessibility to palliative care include 1) coverage by medical insurance; 2) medical benefits for vulnerable individuals; and 3) allowing surrogate decision makers for incapacitated patients.

<Participation>

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

- When it comes to long-term care services, the framework plan for long-term care is renewed every five years (Article 6 of the Act on Long-term Care Insurance for Older Persons). Furthermore, a survey is conducted every three years of beneficiary satisfaction with the benefit, work conditions of service providers, and other issues in order to encourage continued participation of the elderly population (Article 6.2 of the same Act).
- Article 7 of the Act on Decisions on Life-sustaining Treatment for Patients in Hospice and Palliative Care or at the End of Life stipulates that a general plan is established and implemented through the deliberation of the National Hospice and Palliative Care Committee every five years.

<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 long-term and palliative care?

- Punitive measures for individuals and service providers

violating relevant laws are specified in Article 67 (Punitive Measures) through Article 69 (Fines) of the Act on Long-term Care Insurance for Older Persons.

- Article 39 (Punitive Measures) through Article 43 (Fines) of the Act on Decisions on Life-sustaining Treatment for Patients in Hospice and Palliative Care or at the End of Life define punitive measures concerning those who decide the withdrawal of life-sustaining treatment for patients who are not entitled to such withdrawal or those who submit false records or unlawfully release information.

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?
 - Article 10 of the Constitution stipulates that “all citizens shall be assured of human dignity and worth and have the right to pursue happiness. It is the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals.” Article 12 defines personal liberty.
 - The Welfare of Older Persons Act (enacted on June 5, 1981) specifies the rights and freedom of older persons.

<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.
 - Article 2 of the Welfare of Older Persons Act (Basic Ideology) protects older persons’ rights to autonomy and independence by affirming that older persons shall be guaranteed opportunities to participate in work and social activities in accordance with their ability (Clause 2) and that “older persons

shall strive to stay aware of their physical and mental changes as they age in order to maintain health and to contribute to society by using their knowledge and experience” (Clause 3).

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

- Although autonomy and independence are not specifically defined by law, Articles 10 through 19 of the Constitution prescribe the freedom that citizens shall enjoy.

<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?

- (Economic) Economic autonomy and independence is promoted by providing stable income base for the elderly through basic pension, national pension, and job creation programs for older persons.
- (Physical) Programs that support the physical autonomy and independence of older persons include long-term care insurance, care services, health insurance, and other public health schemes.
- (Employment) The Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion (renamed from the Employment Promotion for the Aged Act enacted on March

21, 2008) protects the autonomy and independence of older persons in employment.

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

A. Main challenges

- (Elderly poverty) One of the highest elderly poverty rates
- (Elderly care) Increasing financial burden due to rapidly aging population

B. Best practices

- The government has announced a plan to revise the Welfare of Older Persons Act in order to introduce community-based care services. The goal is to improve housing, medical, and care services in a way that older persons can enjoy healthy seniorhood in their communities.
- Key agenda in the community-based care system includes: 1) expansion of customized housing support; 2) home-visit health check-up and medical services; 3) expansion of at-home long-term care services; and 4) coordination and integration of public-private services for human-oriented care

<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 vulnerable groups or those in vulnerable situation?

- The adult guardianship program was introduced on July 1, 2013 with a goal to assist adult citizens incapable of making decisions due to disability, illness, and/or geriatric conditions. This applies to older persons as well. Based on the type of guardianship, there are 1) guardianship for those with severe mental restrictions, 2) guardianship for those with less severe mental restrictions, 3) guardianship on limited matters; and 4) guardianship in which the person can designate his/her guardian and the range of guardianship.
- Pursuant to Articles 39.5 and 39.19 of the Welfare of Older Persons Act, there are 33 protection centers and 18 shelters for victims of elder abuse across the country, operating with an aim to prevent elder abuse and protect the rights of elderly victims.

<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?

- In compliance with Article 5 of the Welfare of Older Persons

Act, the Ministry of Health and Welfare shall conduct a survey of elderly health and wellness every three years and publish its findings.

- According to Article 4.3 of the Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion, the Ministry of Employment and Labor shall renew the framework plan on the promotion of elderly employment every five years.

<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?

- Currently, there is no judicial nor non-judicial mechanisms to complain and seek redress specifically concerning the infringement of the elderly's autonomy and independence. However, one can file a compensation claim against the State and relevant government organizations. In addition, redress can be sought by using Article 19.2 of the National Human Rights Commission Act (Investigation and Redress Concerning Human Rights Violation and Discrimination).