**Inputs from ECLAC to the X Session of the Open-ended Working Group on Ageing**

**Autonomy and Independence**

The preamble to the San José Charter on the Rights of Older Persons in Latin America and the Caribbean mentions respect for autonomy and independence in decision-making as a fundamental right. Within this Charter, the two concepts are also mentioned in relation to the right to free and informed consent prior to any medical intervention, as well as in relation to care services, the improvement of living conditions and environment, and guaranteeing accessibility for older persons by eliminating architectural barriers.

The independence and autonomy of older persons have a prominent place in the Inter-American Convention on Protecting the Human Rights of Older Persons, being identified both as general principles (article 3) and as standalone rights (article 7). They also receive special mention in relation to the rights of older persons receiving long-term care (article 12) and the right of older persons to recreation, physical activity, leisure and sports to promote their independence and autonomy (article 22).

Article 7 establishes that the States parties shall adopt programmes, policies, or actions to facilitate and promote full enjoyment of the right of older persons to make decisions, to determine their life plans and to lead an autonomous and independent life.

Autonomy and independence are specifically linked to three aspects of the lives of older persons:

1. Decision-making and action;
2. The opportunity to choose one’s place of residence and where and with whom to live, rather than being obliged to live in a particular living arrangement, and
3. Progressive access to a range of in-home, residential, and other community-support services,

including the personal assistance necessary to support living and inclusion in the community and to prevent isolation or segregation from the community.

A recent review of laws, policies, plans and programs implemented in Latin America and the Caribbean on the rights of older persons[[1]](#footnote-1), shows that legislation in 10 countries of the region include the right to independence, autonomy and legal capacity. Some of these laws are prior to the Inter-American Convention on the protection of the human rights of older persons, where autonomy and independence occupy an important place. Several countries also have programs, policies or actions to facilitate and promote the full enjoyment of the right of older persons to make decisions, to define their own life plan and to develop an autonomous and independent life. The National Policy for the elderly in Brazil seeks to ensure social rights of this population group, by creating conditions to promote their autonomy, integration and effective participation in society. The Colombian Policy on ageing and Older Persons 2014-2024 includes among its objectives an autonomous, dignified and integrated old age, within a framework of promotion, realization and restitution of human rights. Colombia has also implemented plans and programs that encourage active ageing and autonomy, through recreational activities and healthy ageing. In Costa Rica, the National Policy on Ageing and Older Persons 2011-2021 promotes and protects the human rights and fundamental freedoms of the elderly and adopts specific measures that stimulate and guide active ageing. Perú has a National Policy on Ageing and Older Persons that considers autonomy, quality of life, integration and social inclusion, and the human rights of older persons. Chile have several programs to promote active ageing, aiming at favoring the autonomy and independence, participation, and social integration of the elderly, as well as delaying their loss of functionality. Costa Rica has programs and actions related to healthy, active and independent ageing, which also consider the establishment of energy quotas for the elderly. Mexico has different programs aiming to maintain the highest quality of life, with the participation of the family, the community and the older persons themselves.

**Long-term and Palliative Care**

Although the long-term care situation has improved in recent years in Latin American and the Caribbean, there is still much to be done. Both the general and specific legal frameworks in the region’s countries and the current range of social programmes for the protection of older persons reveal a growing concentration of care-related risks in families. This increases the vulnerability of those in need of care and those providing it, who as things stand are directly affected by inequality in the distribution of resources by family background.

As a result, one of the greatest challenges between now and 2030 is achieving recognition and inclusion of care in public policies within a framework of solidarity and equality. ECLAC has insisted on the need for social protection to be recast so that it can immediately respond to the consequences of demographic shifts and pre-empt the demands of a constantly changing population[[2]](#footnote-2). In the Caribbean in particular, there is a need to develop gerontological and geriatric care across health and social care systems to meet the needs of older persons in the subregion, paying particular attention to facilitating the access of older persons living in rural, remote and deprived areas to that care.[[3]](#footnote-3)

Despite the pressing need for palliative care, there remains much to be done. Access to palliative care is a legal obligation of States. However, most countries of the region do not meet the demand for palliative care and fail to recognize it as a discipline or to include it in public or private health-care systems. Fewer still have legislated for it, and funding and continuity have been impaired as a result. The majority of national palliative care programmes in the region were created in the late 1990s, meaning the approach is fairly recent. There are isolated initiatives resulting from local efforts, but few countries have a national public policy guaranteeing access to palliative care.

In countries that do have national palliative care programmes, they are linked primarily to oncological diseases, which makes them difficult to access for non-cancer patients, such as those living with HIV/AIDS or suffering from other chronic or terminal illnesses. The law does not require the provision of palliative care for these patients and pain management with analgesics depends on whether doctors are authorized to prescribe opioids. The lack of national policies has led to the emergence of private initiatives to provide care for the terminally ill, but at a very high cost, which debars low-income patients from access. There are also non-profit foundations that provide support and pain relief, although they lack duly accredited personnel. This situation threatens the sustainability of these activities, which are carried out mainly by volunteers and with resources from charitable and non-governmental organizations (NGOs).

A 2014 WHO study[[4]](#footnote-4) presents a classification of progress with palliative care around the world. That year, most countries in Latin America and the Caribbean were in the early stages of developing this type of programme. For example, a large number of Caribbean countries (Antigua and Barbuda, Grenada, Saint Kitts and Nevis and Saint Vincent and the Grenadines) were classified at the lowest level, with no known palliative care activity. Cuba is one of the countries in the region that stands out in this area. The Pain Management and Palliative Care Programme (PADCP) for cancer patients is part of the free universal national health system. Under PADCP, home care is provided by multidisciplinary teams of doctors, nurses and psychologists. It also covers free hospitalization and medication during treatment. Uruguay included palliative care in its Comprehensive Health Care Plan (PIAS). The provision of palliative care has been mandatory since 2008, although it was not rolled out nationwide until 2013, when work began on developing a ministerial policy based on its palliative care remit. According to service providers’ data, 43% of the population was covered in 2016[[5]](#footnote-5).

The Inter-American Convention on Protecting the Human Rights of Older Persons plainly identifies the conditions required to maintain dignity until death: “States Parties shall take steps to ensure that public and private institutions offer older persons access without discrimination to comprehensive care, including palliative care; avoid isolation; appropriately manage problems related to the fear of death of the terminally ill and pain; and prevent unnecessary suffering, and futile and useless procedures, in accordance with the right of older persons to express their informed consent” (article 6)

Article 19 of the Inter-American Convention establishes the following State obligations regarding palliative care in addition to the guarantees mentioned previously:

* Promote and strengthen research and academic training for specialized health professionals in geriatrics, gerontology, and palliative care.
* Promote the necessary measures to ensure that palliative care services are available and accessible for older persons, as well as to support their families.
* Ensure that medicines recognized as essential by WHO, including controlled medicines needed for palliative care, are available and accessible for older persons.

Moreover, articles 6, 11 and 12 of the Convention call for non-discrimination and equality of access in the provision of palliative care.

**Social protection and social security including social protection floors**

A recent report[[6]](#footnote-6) on the implementation of the Montevideo Consensus on Population and Development in Latin America and the Caribbean shows that the limited coverage of social security systems in many countries of the region results in a marked lack of protection, as a considerable proportion of adults aged 60 years and over find themselves without any income of their own; this is more apparent among women than among men. Although the situation has improved since 2012, when 25% of older women in Latin America had no income of their own, social protection systems continue to face significant challenges. According to the latest available data, the proportion of women aged 60 or over who lack their own income in Latin America stands at 17.8%, or over 6 million older women.

Furthermore, social security coverage of the employed population is highly unequal, increasing the likelihood that future generations will lack economic protection. The region has seen notable progress regarding the expansion of non-contributory pensions, which help to reduce some of the economic risks arising in older age. However, it is necessary to continue strengthening mechanisms to enhance protection in old age, especially for older women and rural populations.

Latin American and Caribbean countries are trying to deal with the problems of coverage in different ways, but the trend is clear: the policy that appears to be having the greatest impact is the expansion of non-contributory pensions. In addition to its impact on coverage, this policy change can have significant long-term effects in countries with ageing populations. This is particularly important in countries where the low coverage of contributory social security is complemented by non-contributory pensions, in a context of low contribution coverage and density among the working-age population.

In countries that have a universal-type social security matrix and in which actions have been undertaken to protect old age, there is an overall drop in these figures. In Argentina, Brazil, Chile, the Plurinational State of Bolivia and Uruguay, the proportion of women aged 60 years or over without income of their own is less than 15%. In some countries, however, these figures remain high, as in the case of Colombia, Costa Rica, El Salvador, Guatemala, Honduras and Paraguay, where the percentage of older women without income accounts for more than a quarter of the older female population.

According to the above-mentioned report, important progress on social protection of older persons has been made in the region. Argentina describes the creation of the National Programme of Historical Reparations for Retirees and Pensioners and the declaration on the social security crisis which gives the government three years to pay outstanding amounts to claimants (Law No. 27,260)[[7]](#footnote-7). The Universal Pension for Older Adults was also created within this framework, which is paid for life to persons aged 65 or over who do not receive any other benefits. Chile described the implementation of the Basic Solidarity Old-age Pension, a benefit that provides a specified sum of money to individuals who are not entitled to a pension under any pension system. Women, who have traditionally not contributed to pension systems because they perform unpaid labour, are the main beneficiaries of the scheme as it gives them access to an old-age pension.

Meanwhile, through its Social Protection Programme for Older Adults, known as “Colombia Mayor”, Colombia provides bimonthly subsidies to pay for the basic necessities and improve the quality of life of more than 1.4 million persons in vulnerable situations, and seeks to expand coverage from 1.5 million to 2.4 million beneficiaries and to increase the subsidy amount gradually. Cuba reports that more than 1.5 million people had received social security pensions by the end of 2016. In that same year, social welfare protection was afforded to 56,697 older persons, which paid all or some of the home-based care costs of more than 3,000 older adults, of the nursing home costs of almost another 3,000 people, and of the retirement home costs of some 2,600 older people.

In its report, Ecuador notes that the average amount of retirement pensions increased by 51% between 2007 and 2016, in an effort to help older persons live in dignity. In order to extend social protections to older persons who do not receive a retirement pension, the government also launched a non-contributory social security system, under which older adults who are not covered by the social security system receive a welfare pension. El Salvador reported that since 2013, it has been investing in its *Comunidades Solidarias* programme, the rural arm of which has given access to a basic universal pension to 28,000 older persons, 54% of whom are women, while the urban arm has provided benefits to 4,800 persons, 58% of whom are women.

In Jamaica, more than 60,000 older persons received bimonthly cash grants in the fiscal year 2016/17 under the social assistance programme of the Ministry of Labour and Social Security. Mexico reported that as part of its National Inclusion Strategy, efforts were made to include older persons in the *Pensión para Adultos Mayores* (pension for older adults) programme. Furthermore, as part of efforts to provide financial support to older persons, the statutory age for receiving a social pension was lowered from 70 to 65, resulting in an additional 2.3 million beneficiaries of the pension programme since 2012. The programme currently covers 5.4 million older persons. Meanwhile, the Plurinational State of Bolivia reports that since the promulgation of the Pensions Act (Law No. 065) in 2010, which created the administration for the Comprehensive Pension System, the number of retirees had increased 244% by December 2016. In its report, Uruguay noted that there was a high level of social security coverage in retirement, with 87.9% of persons aged 65 and over receiving pensions and retirement benefits in 2016.

1. Available at https://conferenciaenvejecimiento.cepal.org/4/en/programme/statements-countries.html. [↑](#footnote-ref-1)
2. Economic Commission for Latin American and the Caribbean (ECLAC), Challenges to the autonomy and interdependent rights of older persons (LC/CRE.4/3), Santiago. [↑](#footnote-ref-2)
3. Economic Commission for Latin American and the Caribbean (ECLAC), Implementation of the Montevideo Consensus on Population and Development in the Caribbean: A Review of the period 2013–2018”, Port of Spain [online] https://www.cepal.org/sites/default/files/events/files/review\_of\_implementation\_of\_montevideo\_ consensus.pdf. [↑](#footnote-ref-3)
4. Connor, S. and M. Sepúlveda (eds.) (2014), *Global Atlas of Palliative Care at the End of Life*, London, World Health Organization/Worldwide Palliative Care Alliance (WHO/WPCA), January. [↑](#footnote-ref-4)
5. Gobierno de Uruguay (2017), “Informe nacional sobre el avance en la implementación del Consenso de Montevideo sobre Población y Desarrollo”, Montevideo, noviembre [online] https://crpd.cepal.org/3/es/documentos/informe-nacional-uruguay. [↑](#footnote-ref-5)
6. Economic Commission for Latin America and the Caribbean (ECLAC), Draft first regional report on the implementation of the Montevideo Consensus on Population and Development (LC/CRPD.3/3), Santiago, 2018. [↑](#footnote-ref-6)
7. Law No. 27,260: National Programme for Historic Reparations for Retirees and Pensioners, passed by the National Congress on 29 June 2016, proposes the voluntary signature of an agreement recognizing the rights of retirees and pensioners who had started legal proceedings against the National Social Security Administration (ANSES) to update their pensions, based on decisions handed down by the Supreme Court of Justice, the Social Security Court and the Federal Courts (Government of Argentina, 2018). [↑](#footnote-ref-7)